

Washington, Friday, February 26, 1960

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1696 2052\_\_\_\_\_ 1666 Government Printing Office, Washington 25, D.C.

Order from the Superintendent of Documents,

1696 Public Land Orders:

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# Rules and Regulations

# Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Milk Order 118]

#### PART 1018—MILK IN SOUTHEAST-ERN FLORIDA MARKETING AREA

#### Order Amending Order

#### § 1018.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

- (a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southeastern Florida marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:
- (1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;
- (2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;
- (3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) Additional findings. It is necessary in the public interest to make this order amending the order effective not later than February 25, 1960.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator of the Agricultural Marketing Service was issued January 27, 1960, and the decision of the Acting Secretary containing all amendment provisions of this order issued February 12, 1960. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective February 25, 1960, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the Federal Register. (See section 4(c), Administrative Procedure Act, 5 U.S.C. 1001-1011.)

- (c) Determinations. It is hereby determined that:
- (1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;
- (2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and
- (3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. The order is hereby amended as follows:

Delete §§ 1018.90, 1018.91 and 1018.92 and substitute the following:

# § 1018.90 Computation of daily base for each producer.

Subject to the rules set forth in § 1018.91, a daily base, effective for 12 months beginning February 1 of each year, shall be computed for each producer by dividing the total pounds of milk received from such producer at all pool plants during the base earning months of August through December immediately preceding by the number of days beginning with the first day of delivery by such producer during such months through the last day of December, inclusive, or by 120, whichever is greater: Provided, That any producer who, during the preceding months of August through December, delivered his milk to a nonpool plant which subsequently became a pool plant shall be assigned a base in the same manner calculated from his deliveries during such August-December period to such plant: And provided further. That for the period beginning with March 1, 1960, and through January 31, 1961, the daily base for each producer shall be computed by dividing the total pounds of milk received from such producer at all pool plants during the base earning months of August 1959 through January 1960, inclusive, by the number of days from the first day of delivery during such months through the last day of January, or by 150, whichever is greater, subject also to the first proviso of this section applied to the August 1959 through January 1960 period instead of the August-December period.

#### § 1018.91 Base rules.

The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base as calculated pursuant to § 1018.90 to each person for whose account milk was delivered to plants as described in § 1018.90 during the months of August through December (August through January for bases effective March 1, 1960): Provided. That any producer who has not earned a base pursuant to § 1018.90 or any producer who elects to relinquish such base by giving written notice to the market administrator, shall be assigned a base each month equal to the percentage of his deliveries specified in the following schedule:

 February
 Percentage

 March
 50

 April
 50

 May
 55

 June
 55

 July
 60

 August
 70

 September
 70

 October
 65

 November
 60

 December
 55

 January
 55

- (b) Assignment and transfer of any base shall be subject to the following rules:
- (1) An entire base (except one computed pursuant to the proviso of paragraph (a) of this section) may be transferred from a person holding such base to any other person, effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to be transferred: Provided, That if a base is held jointly, the entire base shall be transferable only upon the receipt of such application signed by all joint holders, or their heirs, and by the person to whom such base is to be transferred.
- (2) If milk received as producer milk under the name of more than one person is produced on, in, or by use of the same milking barns or premises, the base or bases assigned to such persons as producers shall not exceed the base assignable if such milk were produced by one person using the same facilities.
- (3) A base may be divided among members of a partnership, among members of the immediate family of the baseholder, or among stockholders of a

corporation at dissolution of the corporation, such division to be effective as of the end of any month during which an application for such division is received by the market administrator on forms approved by the market administrator and signed by persons making such division.

(4) A person who has transferred a base computed from milk deliveries to pool plants during a base earning period may not have a base assigned to him on a percentage of his deliveries pursuant to the proviso of paragraph (a) of this section until after the end of the period to which the transferred base applies.

(5) A producer who has made milk deliveries to pool plants during the immediately preceding base earning period may elect to have his base computed from his milk deliveries to pool plants in the second preceding base earning period, if he so notifies the market administrator prior to the month in which such election will apply.

#### § 1018.92 Announcement of established bases.

On or before January 25th of each year, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the producer's daily base to be effective for the 12-month period, beginning February 1 of such year: *Provided*, That for the period March 1960 through January 1961, each producer's base shall be announced on or before February 25, 1960. (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Issued at Washington, D.C., this 23d day of February 1960, to be effective on and after the 25th day of February 1960.

CLARENCE L. MILLER, Assistant Secretary.

[F.R. Doc. 60-1730; Filed, Feb. 25, 1960; 8:47 a.m.]

# Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER E-AIR NAVIGATION REGULATIONS

[Airspace Docket No. 59-WA-137]

[Amdt. 215]

# PART 600—DESIGNATION OF FEDERAL AIRWAYS

[Amdt. 248]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL A R E A S, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

# Extension of Federal Airway and Associated Control Areas

On September 23, 1959, a Notice of Proposed Rule-Making was published in the Federal Register (24 F.R. 7654) stating that the Federal Aviation Agency

was considering an amendment to \$\$ 600.6039 and 601.6039 of the regulations of the Administrator which would extend VOR Federal airway No. 39 and its associated control'areas from Kennebunk, Maine, to Presque Isle, Maine. Under date of October 22, 1959, the Department of the Air Force requested an extension of the time in which to submit its comments. In accordance with this request, a Supplemental Notice of Proposed Rule-Making was published (24 F.R. 9512) extending the date for submission of comments to November 30, 1959.

As stated in the notice, Victor 39 presently extends from South Boston, Va., to Kennebunk, Maine. The Federal Aviation Agency is extending Victor 39 and its associated control areas from the Kennebunk VOR via the Augusta, Maine, VOR, and a VOR to be commissioned on or about April 1, 1960, near Millinocket, Maine, at latitude 45°35'12'' N., longitude 68°30′56′′ W. (corrected coordinates), to the Presque Isle, Maine, VOR. The extension of Victor 39, together with VOR Federal airway No. 3. will provide a dual airway structure between the Augusta VOR and the Presque Isle VOR to accommodate the high volume of traffic operating via these facilities.

The Department of the Air Force objected to the segment of Victor 39 which is being designated from the Augusta VOR direct to the Millinocket VOR as it would conflict with a Restricted Area/ Military Climb Corridor which the Air Force wishes to have established on the 322° True radial of the Dow AFB TACAN, and recommended that this segment of the airway be designated via the Augusta VOR 014° True and the Millinocket VOR 245° True radials. Such action would increase the airway mileage between Augusta and Millinocket from 108 miles to 119 miles. would require the use of the Augusta VOR radial for approximately 68 miles and would move the airway closer to the higher terrain of central Maine. The Federal Aviation Agency IFR peak-day survey for the calendar year 1958 showed 45 aircraft movements on Amber Federal airway No. 7, which occupies essentially the same airspace as the proposed Victor 39, from Augusta to Millinocket, as against an Air Force estimate of 15 ADC operations per day that will use the Dow AFB climb corridor. In view of the foregoing, the Federal Aviation Agency is extending Victor 39 and its associated control areas as proposed in the Notice, and will investigate an orientation of the Dow AFB Restricted Area/Military Climb Corridor to the south or southeast.

No other adverse comments were received.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) § 600.6039 (24 F.R. 10510) and § 601.6039 (24 F.R. 10599) are amended as follows:

1. Section 600.6039 VOR Federal airway No. 39 (South Boston, Va., to Kennebunk, Maine):

(a) In the caption delete "(South Boston, Va., to Kennebunk, Maine)" and substitute therefor "(South Boston, Va., to Presque Isle, Maine)"

(b) In the text delete "to the Kennebunk, Maine, VOR." and substitute therefor "Kennebunk, Maine, VOR; Augusta, Maine, VOR; Millinocket, Maine, VOR; to the Presque Isle, Maine, VOR."

2. In the caption of \$601.6039 VOR Federal airway No. 39 control areas (South Boston, Va., to Kennebunk, Maine), delete "(South Boston, Va., to Kennebunk, Maine)." and substitute therefor "(South Boston, Va., to Presque Isle, Maine)."

These amendments shall become effective 0001 e.s.t. April 7, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on February 18, 1960.

D. D. Thomas, Director, Bureau of Air Trafic Management.

[F.R. Doc. 60-1716; Filed, Feb. 25, 1960; 8:45 a.n.]

[Airspace Docket No. 59--KC-31; Amdt. 243]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL A R E A S, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

# Revocation of Control Zone and Control Area Extension

On October 29, 1959, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (24 F.R. 8802) stating that the Federal Aviation Agency proposed to revoke the Emporia, Kans., control zone and control area extension.

No comment was received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

Pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for reasons set forth in the notice, the proposed amendment is hereby adopted without change and set forth below:

1. Section 601.2430 Emporia, Kans., control zone is revoked.

2. Section 601.1315 Control area extension (Emporia, Kans.) is revoked.

This amendment shall become effective 0001 e.s.t. April 7 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on February 18, 1960.

I). D. Thomas, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-1717; Filed, Feb. 25, 1960; 8:45 a.m.]

#### PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA. CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEG-**MENTS**

#### Revocation of Control Zone

On October 31, 1959, a Notice of Proposed Rule-Making was published in the FEDERAL REGISTER (24 F.R. 8907) stating that the Federal Aviation Agency proposed to revoke the Philip, S. Dak., control zone.

No comment was received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

Pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for reasons stated in the notice, the proposed amendment is hereby adopted without change and set forth below:

Section 601.2433 Philip, S. Dak., control zone is revoked.

This amendment shall become effective 0001 e.s.t. April 7, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on February 18, 1960.

> D. D. THOMAS. Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-1718; Filed, Feb. 25, 1960; 8:45 a.m.]

# Title 19—CUSTOMS DUTIES

Chapter I-Bureau of Customs, Department of the Treasury

IT.D. 550561

#### PART 16-LIQUIDATION OF DUTIES

#### Countervailing Duties; Sugar From Australia

Net amount of bounty declared for the last 6 months of 1959 for products of Australia subject to the countervailing duty order published in T.D. 54582, § 16.24(f), Customs Regulations. amended.

The following information is published pursuant to T.D. 54582 dated April 29, 1958 (23 F.R. 3034).

The Treasury Department is in receipt of official information that the rates of bounties or grants paid or bestowed by the Australian Government within the meaning of section 303, Tariff Act of 1930 (19 U.S.C. 1303), on the exportation during the last 6 months of 1959 of approved fruit products and other approved products containing sugar are the amounts set forth in the following table:

[Airspace Docket No. 59-KC-38; Amdt. 242] MERCHANDISE—APPROVED FRUIT PRODUCTS AND OTHER APPROVED PRODUCTS

> Net amount of bounty per 2,240 pounds of sugar content July \_\_\_\_\_ A£28.12.0 August\_\_\_\_ 30.18.0 September \_\_\_\_\_ 29. 9.0 October \_\_\_\_\_ 27.11.0 November \_\_\_\_ 27, 1.0 December \_\_\_\_\_ 27.14.0

The net amounts of bounties or grants on the above-described commodities which are manufactured or produced in Australia are hereby ascertained, determined, and declared to be the amounts set forth in the above table. Collectors of customs shall assess and collect additional duties on the above-described commodities, whether imported directly or indirectly from that country, equal to the appropriate net amount of the bounty shown in the above table.

The table in § 16.24(f) of the Customs Regulations is amended by inserting after the last line under "Australia— Sugar content of certain articles" the number of this Treasury decision in the column headed "Treasury Decision" and the words "New rates" in the column headed "Action".

(R.S. 251, as amended, secs. 303, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

D. B. STRUBINGER. Acting Commissioner of Customs.

Approved: February 18, 1960.

A. GILMORE FLUES, Acting Secretary of the Treasury.

[F.R. Doc. 60-1759; Filed, Feb. 25, 1960; 8:52 a.m.]

# Title 41—PUBLIC CONTRACTS

Chapter I—Federal Procurement Regulations

#### PART 1-2-PROCUREMENT BY FORMAL ADVERTISING

#### Subpart 1-2.4-Opening of Bids and **Award of Contract**

OTHER MISTAKES DISCLOSED BEFORE AWARD

Section 1-2.406-3 is added to read as follows:

#### § 1-2.406-3 Other mistakes disclosed before award.

(a) Heads of executive agencies are authorized, in order to minimize delay in contract awards, to make the administrative determinations described below in connection with mistakes in bids alleged after opening of bids and before award. The authority contained herein to permit correction of bids is limited to bids which, as submitted, are responsive to the invitation for bids, and may not be used to permit correction of bids to make them responsive. This authority is in addition to that in section 1-2.406-2 or that which may be otherwise available.

- (1) A determination may be made permitting the bidder to withdraw his bid where the bidder requests permission to do so and clear and convincing evidence establishes the existence of a mistake. However, if the evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended, and if the bid, both as uncorrected and corrected, is the lowest received, a determination may be made to correct the bid and not permit its withdrawal.
- (2) A determination may be made permitting the bidder to correct his bid where the bidder requests permission to do so and clear and convincing evidence establishes both the existence of a mistake and the bid actually intended. However, if such correction would result in displacing one or more lower bids, the determination shall not be made unless the existence of the mistake and the bid actually intended are ascertainable substantially from the invitation and bid itself. If the evidence is clear and convincing only as to the mistake, but not as to the intended bid, a determination permitting the bidder to withdraw his bid may be made.
- (3) If the evidence does not warrant a determination under subparagraph (1) or (2) of this paragraph, a determination may be made that a bidder may neither withdraw nor correct his bid.
- (b) Heads of executive agencies may delegate to a central authority in their agencies, without power of redelegation, authority to make the determinations under this section 1-2.406-3.
- (c) Each proposed determination shall be approved by the agency's General Counsel, Associate General Counsel, an Assistant General Counsel, or other comparable legal officer.
- (d) Suspected or alleged mistakes shall be processed as follows:
- (1) Whenever the contracting officer suspects that a mistake may have been made in a bid, he shall immediately request the bidder to verify the bid. Such request shall inform the bidder why the request for verification is made—that a mistake is suspected and the basis for such suspicion; e.g., that the bid is significantly out of line with the next low or other bids or with the Government's estimate. If the time for acceptance of bids is likely to expire before a decision can be made, the contracting officer shall request all bidders. whose bids may become eligible for award, to extend the time for acceptance of their bids. If the bidder whose bid is believed erroneous does not grant such extension of time and a decision cannot be reached before expiration of the time for acceptance, even if handled by telegraph or telephone as provided in subparagraph (4) of this paragraph, the bid shall be considered as originally submitted.
- (2) If the bidder verifies his bid, the contracting officer shall consider it as originally submitted. If the bidder alleges a mistake, the contracting officer shall advise him to support his allegation by statements concerning the alleged

mistake and by all pertinent evidence, such as the bidder's file copy of the bid, his original worksheets and other data used in preparing the bid, subcontractors' and suppliers' quotations, if any, published price lists, and any other evidence which will serve to establish the mistake, the manner in which it occurred, and the bid actually intended.

(3) Where the bidder furnishes evidence in support of an alleged mistake, the case shall be referred to the appropriate authority together with the following data:

(i) All evidence furnished by the. bidder.

(ii) A copy of the bid, of the invitation for bids, and any specifications or drawings relevant to the alleged mistake.

(iii) An abstract or record of the bids received.

(iv) A written statement by the contracting officer setting forth-

(A) The expiration date of the bid in question and of the other bids submitted;

(B) Specific information as to how and when the mistake was alleged;

(C) A summary of the evidence submitted by the bidder;

(D) In the event only one bid was received, a quotation of a recent contract price for the supplies or services involved or, in the absence of a recent comparable contract, the contracting officer's estimate of a fair price for the supplies or services and the basis for such estimate;

(E) Any additional evidence considered pertinent including copies of all correspondence between the contracting officer and the bidder concerning the alleged mistake; and

(F) The course of action with respect to the bid that the contracting officer considers proper on the basis of the evidence.

(4) When time is of the essence, because of the expiration of bids or otherwise, the contracting officer may refer the case by telegraph or telephone to the designated authority. Ordinarily, however, contracting officers will not refer mistake in bid cases to the designated authority by telegraph or telephone, particularly when the determinations set forth in this section 1-2.406-3(a) (2) and (3) are applicable, since actual examination of the evidence is generally necessary to determine the proper action to

(5) Where the bidder fails or refuses to furnish evidence in support of a suspected or alleged mistake, the contracting officer shall consider the bid as submitted unless the amount of the bid is so far out of line with the amounts of other bids received or with the amount estimated by the agency or determined by the contracting officer to be reasonable, or there are other indications of error so clear, as reasonably to justify the conclusion that acceptance of the bid would be unfair to the bidder or to other bona fide bidders. The attempts made to obtain the information required and the action taken with respect to the bid shall be fully documented.

(e) Nothing contained in this section 1-2.406-3 shall deprive the Comptroller General of his statutory right to question the correctness of any administrative determination made hereunder nor deprive any bidder of his right to have the matter determined by the Comptroller General should he so request. All doubtful cases shall be submitted to the Comptroller General for advance decision in accordance with agency procedures.

(f) Each agency shall maintain records of all administrative determinations made in accordance with this section 1-2.406-3, the facts involved, and the action taken in each case. Copies of all such administrative determinations shall be included in the case file. Where a contract is awarded, the General Accounting Office copy of the contract, wherever filed, shall be accompanied by a signed copy of any related determina-

Effective date. This section is effective July 1, 1960, but may be observed earlier.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: February 18 1960

FRANKLIN FLOETE. Administrator of General Services.

[F.R. Doc. 60-1667; Filed, Feb. 25, 1960; 8:45 a.m.]

## Title 49—TRANSPORTATION

Chapter I-Interstate Commerce Commission

SUBCHAPTER B--CARRIERS BY MOTOR VEHICLES

[Ex Parte No. MC-40]

#### PART 194-REPORTING OF **ACCIDENTS**

**Qualifications and Maximum Hours of** Service of Employees of Motor Carriers and Safety of Operation and Equipment

FEBRUARY 12, 1960.

Pursuant to notice of proposed rule making issued October 15, 1959 (24 F.R. 8554), an order dated November 27, 1959, published December 5, 1959 (24 F.R. 9784), was issued amending § 194.2 of the Code of Federal Regulations (49 CFR 194.2) to provide that every motor carrier, except private carriers, shall report to the Interstate Commerce Commission in the manner therein prescribed every accident in which a motor vehicle operated by him or it is involved. and from which there results an injury to or death of any person, or property damage to any and all vehicles, cargo, or other property involved, to an apparent extent of \$250.00 or more.

On and after December 31, 1959, accidents which must be reported by every motor carrier, except private carriers, subject to Part II, Interstate Commerce Act (49 U.S.C. 301 et seq.), are those accidents which occur in either interstate or intrastate commerce in which a motor vehicle operated by the motor carrier is involved and from which there results an injury to or death of any person, or property damage to any and all vehicles, cargo, or other property involved to an apparent extent of \$250 or more. Accidents involving vehicles and drivers used wholly within a municipality or commercial zone thereof, as defined by the Commission, are not reportable, except accidents occurring when transporting explosives or other dangerous articles of such type and in such quantity as to require the vehicle to be specially marked or placarded under the Explosives and Other Dangerous Articles Regulations, § 77.823 (49 CFR 77.823), or when operating without cargo under conditions which require the vehicle to be so marked or placarded under the cited regulations.

The original and one copy of each accident report on the form prescribed by the Commission must be filed by the motor carrier as soon as possible, and in every instance within 15 days after occurrence of the accident, with the District Director, Bureau of Motor Carriers, for the district in which the motor carrier has his or its principal place of business. A copy of each accident report must be retained by the motor carrier in the files of his or its principal place of business.

[SEAL]

HAROLD D. McCOY, Secretary.

[F.R. Doc. 60-1746; Filed, Feb. 25, 1960; 8:49 a.nı.]

# Title 43—PUBLIC LANDS: INTERIOR

Chapter I-Bureau of Land Management, Department of the Interior

APPENDIX-PUBLIC LAND ORDERS

[Public Land Order 2052] [Nevada 051062]

NEVADA

#### Withdrawing Lands for Use of the Bureau of Land Management as an Administrative Site

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Nevada, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining, but not the mineral leasing laws, nor disposals of materials under the act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604), as amended, and reserved for use of the Bureau of Land Management, Department of the Interior, as an administrative site for fire control facilities.

MOUNT DIABLE MERIDIAN

T. 20 N., R. 19 E., Sec. 21, S1/2 NE1/4 NE1/4 NE1/4.

The tract described contains 5 acres.

ROGER ERNST. Assistant Secretary of the Interior.

FEBRUARY 18, 1960.

[F.R. Doc. 60-1721; Filed, Feb. 25, 1960; 8:46 a.m.]

# Title 15—COMMERCE AND FOREIGN TRADE

2. The following entries set forth below are substituted for entries presently on the Positive List. Where the Positive List contains more than one entry under a Schedule B number, the entry to be superseded is identified by a numerical reference in parentheses following the commodity description in the revised entry:

Chapter III—Bureau of Foreign Commerce, Department of Commerce

SUBCHAPTER B-EXPORT REGULATIONS

[9th Gen. Rev. of Export Regs., Amdt. P.L. 211]

# PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

# Miscellaneous Amendments

Section 399.1 Appendix A—Positive List of Commodities is amended in the following particulars:

1. The following commodities are added to the Positive List:

			<del></del>		<del></del>	
Commodity		<b>⋖</b>	<b>∢</b>	∢	<b>∢</b> .	∢
Validated license re-	RO '	RO	ВО	RO	RO	RO
GLV dollar value limits	100	None	100	100	100	909
Processing code and related commodity group	STEE 2 STEE 2	MINL 1	RARA 1	RARA 1	RARA 1	TOOL 9
Unit	Lb.	Lb.				
Commodity description	Alloy steel scrap containing 5 percent or more nickel. Alloy steel scrap containing 1 percent or more transcrete.	Nonferrous metals and alloys in crude form, scrap, and semilabricated forms, n.e.c. (Specify by name.) (See § 399.2, Interpretations 10 and 12): Dendrittle forms of any semiconductor material, or combinations thereof, suitable for use in diodes or transitions.	Electronic detection and ravigational appara- tits, n.e., and specially fabricated parts and accessories, n.e.c. [Report spare and replacement times in 70824-70840]. Radiant energy Type thermal detecting cells (e.g., bolometers and thermocouple detectors) with a response time constant of less finan 10 milliseconds measured at the operating temperature of the cell for which the time constant reaches mini-	Amplifiers (except audio frequency), n.e.c., and specially fabricated parts and accessories. L.e.c.:  Parametric amplifiers with a noise figure of merit of 5 decibels or less measured at a temperature of 11° C; paramagnetic amplifiers; and specially fabricated parts	and accessories therefor.  Electronic equipment, n.e., and specially fabricated parts and accessories, n.e., and components, n.e., and components, n.e., as follows: (a) assemblies and subassemblies constituting one or more functional circuits with a component, density greater than 75 parts per cubic inchange and equipment, containing such assembly.	or sub-assembly; (b) modular insulator panels (including waters) mouthing single or multiple electronic elements; and specially fabricated parts, n.e., and specially fabricated parts, n.e., and specially fabricated parts and accessives, n.e.; Explosion equipment or presses, all types actuated by explosive materials or enertical parts agass including air (except conventional pneumentic presses).
Dept. of Com- merœ Schedule B No.	65462	66540	70867	70879	70886	74601

<sup>1</sup> On or after Mar. 17, 1960, an Import Certificate (or a Hong Kong Import License) will be required in support of a license application covering exports of this commodity to the countries specified in § 373.2 of this chapter. This item of the amendment shall become effective as of February 8, 1960. <sup>1</sup> This amendment was published in Current Export Bulletin 827, dated February 1, 1960.

Commodity lists		4	<b></b> ₹	<b>∀</b>	<b>⋖</b>	<b>∢</b>	∢	₽	<b>∢</b>			·
Vali- dated license re- quired	RO	RO	RO	RO	RO	RO	RO	80 80	RO RO	RO	BO.	RO
GLV dollar value limits	252	100	100	100	100	901	8 ·	88	001	100	100	None
Processing code and- related commodity group	PETR 2	STEE 3	STEE3	STEE3	NONF 7	NONF 7	NONF 7	NONF 8	NONF 7		STEE 2	MINE 2
Unit	Gal.	Lb.	No.	Lb.	G	Ľb.	Ľb.	12.	13 13	Lb.	5	· ·
Commodity description	Hydraulic or automatic transmission fluids, petroleum based, having all the following characteristics: (a) kinematic viscosity of 46 centilstokes or greaten et 21°C F.; (b) pour point of minus 30° F. or lower; and (c) viscosity index (VI) of 130 or higher; <sup>3</sup> to	Fabritated sele i products: Steel pipe lined or covered with polytetra- fluoroethylene or polytrifluorochloroethyl- ene, wit. Stipping containers for oils, gas, and other	liquida and sollds (all metals); Filled tiquefled gas containers, jacketed only, as follows: (a) liquid fluorine containers of 250 gallons capacity and over; and (b) other liquidate gas containers of over 500 gallons	Unfilled liquefled gas containers, jacketed only, as follows: (a) liquid fluorine containers of 250 gallons capacity and over; and (b) other liquefled gas containers of over 500 gallons capacity is it.	Welding rods and wires, including brasine rods. Nikels alloy welding rods, wires, and electrodes (including brazing rods) containing 32 percent or more nickel, except those of nickel-copper alloys containing not more than 6 percent of other alloying elements. (Specify by name and nickel content.) (6) <sup>18</sup>	Nickel powder; and nickel alloy powder and flakes (including nickel-chrome-boron powder) and alloy powder and flakes (including nickel-chrome-boron powder) or more nickel, except nickel-copper alloy powder and flakes containing not more than 6 percent of other powders provided to the containing not more than 6 percent of other powders and other powders.	Muoying tements, (9) so the above the analysis on the scrap containing 32 percent or more nickel, except ulkel-copper alloy scrap containing not more than 6 percent of other alloying elements. (See § 399.2, Interpretations 10 and	Bi-metallic strip for thermostats **1 19	III OFFICE AND THE CONTRIBUTE OF THE CONTRIBUTION OF THE CONTRIBUT	less than 95 percent nickel and within a diameter range of .02 mm. to 5 mm., both inclusive. 1 s a containing a failor metal in semilabricated forms, containing 32 percent or more nickel, except nickel-copper alloys containing not more than 6 percent of other sulloying elements. (Specify by name.) [Report cupro-nickel wire in	64571, 18 % Alloy steel scrap containing 5 percent or more cobalt by weight. (See § 399.2, Interpretations 10 and 12.) (7) 3 s	Nonferrous metals and alloys in crude form, serap, and semifabricated forms, ne.c. (Specify by name.) (See § 399.2, Interpretations lond 12):  Germantum metal having a resistivity of 50 ohns centimeter or greater. (5) **
Dept. of Com- merœ Schedule B No.	50590	71881	61932	61934	61944	61987	65462	65467 65467	65480	65480	66429	66540

See footnotes at end of table.

-	Commodity lists	<b>.</b>	⋖			∢			¥		∢	
	Vali- dated license re- quired	RO	) Y	RO		RO		R0	RO	- BO	RO	RO
i	GLV dollar value limits	001	3	99	3	100		100	100	001	100	100
	Processing code and related commodity group		ELMES	ELME 4		ELME 3		ELME 4	ELME 3	ELME 4	ELME 3	ELME 4
	Unit	No.		No.		No.		No.	No.	No.		
	Commodity description	Waveform measuring, etc., instruments—Con. Radio spectrum analyzers possessing any of the following characteristics: (a) designed to operate at frequencies exceeding 500 mega-cycles; or (b) designed to operate at frequencies from 300 to 500 megacycles using intercharges have beds and incorporating integral sweep facilities. (Specify by name and model number.) (2) n.	Cure wavenorm measuring, allayzing and/or testing instruments possessing any of the following related testings; (a) designed for operation at frequencies exceeding, 500 megacycles; or (b) rated to maintain their	spentac operating team ween operating over a range of ambient temperatures extending from below -25° C. to above +55° C. (Specify by name and model number.) (3) is it if the weeken mean and model other wevelorm measuring, analyzing and/or is a constraing.	testing instruments operating at frequencies from 30 to 500 megavycles. (Specify by name and model number.) (2 and 3) *5*n Electrical and electronic characteristics testing instruments, inc., and specially fabricated parts and accessories, n.e., for electrical and electronic quantity and characteristics and electronic quantity and characteristics.	Frequency measuring instruments of the quency measuring instruments and frequency standards possessing any of the following characteristics: (a) designed for other than ground laboratory use with an accuracy better than 1 part in 10: or (b)	designed for ground laboratory use with a stability over 24 hours of 1 part in 10% or better. (Specify by name and model number of the stability over 100 to	0 (bc.) (2) do the frequency measuring instruments and frequency standards with an accuracy better than 0.0000 percent. (Specify by name and model number.) (2) 1 1 10		ambient vemperatures extending nom below  —23° C. to above +53° C. (Specify by name and model number.) (4) 1st	Parts and accessories, n.e.c. (including oscil-loscope blugic in amplifiers and preamplifiers having a bandwidth greater than 12 megacycles), specially fabricated for electrical and electronic quantity and claracetristics measuring and testing instruments included on the Positive List under Schedule B No. 70822 through 70379 which are subject to the ICDN, procedure. (Specify by name.)	Paris and accessories, n.e.c., specially fabricated for electrical and electronic quantity and characteristics measuring and testing instruments included on the Fositive List under Schedule B Nos. 70322 through 70379 which are not subject to the IC/Dy procedure. (Specify by name.) (7) 1119
	Dept. of Com. merce Schedule B No.	70374	# 1901	70374		70379		70379	70379	70379	70379	70379
	Commodity lists	∢	¥		A	4		,	∢		₹	
173	vall- dated license re- quired	N O	RO	RO	RO	RO	Ç	2	RO	RO	RO	RO
	dellar value limits	100	100	100	100	100	2	 Bor	100	100	100	100
o coord	rrocessing code and related commodity group	ELME 3	ELME 3	ELME 4	ELME 3	ELME 3	A GLASS	* 4 1 1 1 1	ELME 3	ELME 4	BLME 3	ELME 4
	Unit	N.	No.	o Z	No.	No.	ž	io (	No.	No.	No.	No.
	Commodity description	Electrical quantity indicating instruments (electrical or electronic type), nonrecording, n.e.c.; Frequency indicating instruments possessing either of the following chanceleristics: (a) designed for other than ground laboratory use with an accuracy better than 1 part in 10°; or (a) designed for ground laboratory use with a stability over 23 hours of 1 part in 10° or hetter (Sneedy by none of 1 part in 10° or hetter (Sneedy by none and model)	number.) (1 and 2) ii ii o'r man announ. Beerfral quantity indreating instruments operating at frequencies exceeding 500 mega- cycles. (Specify by name and model num- her.) (2) u			10; or (b) designed for ground laboratory use with a stability over 24 hours of 1 part in 10 or better. (Specify by name and model mumber; (and 2) in n		cither of the following characteristics: (a) having an accuracy better than 0,0001 percent, or (b) operating at frequencies from 300 up to and including 500 megacycles.			Cathode ray oscilloscopes (oscillographs) possessing any of the following characteristics: (a) a bandwidth greater than 12 megacycles per second; (b) a time base shorter than 0.04 microseconds per centimeter; (c) containing or designed for the use of one or more cathode ray tubes having three or more electron guns of or eathode ray memory tubes; or (d) employing accelerating potentials in excess of 6000 cold.	
Dent of	Com- Com- Com- Com- Schedule B No.	70362	70362	70362	70370	70370	20370		70372	70372	70374	70374

Commodity	4	-		,	•	⋖ .			<b>⊲</b> •	
Validated license required	R0					8- 0-		. ,	RO RO	P. P
GLV dollar value limits	28	-	,			<b>B</b>	•	,	. 00	001
Processing code and related commodity group	RAŔA 1					RABA 1	``		RARA 1	, RARA 2
Unit	No.	•				No.	•	7	**************************************	` .
Commodity description	Electronic equipment, n.e.c., and parts—Con. Crystal diodes and transistors (semi-conductors, n.e.c.) as transistors (a) any semi-conductor diode in which the bulk material is other than silton, germanium, selentum or copper-oxide; (b) signal diodes	(including mixer, frequency-changing and switching diodes). (i) point contact type diodes in which the bulk material is sili- con and which are designed for use at input frequencies greater than 300 mega- cycles; (2) point contact type diodes in	which the bulk material is germanium, and which are designed for use at input frequencies greater than 1,000 megazyeles, (3) junction type diodes in which the bulk material is siltioon and which are designed for use at input frequencies greater than 1 megacycle or switching rates (repetition	requency higher than 100 kilotycles; (4) junction type diodes in which the bulk material is germanium and which are designed for use at input frequencies greater than 300 megacycles or switching rates (repetition frequency) higher than I megacycle; (0) power diodes in which the rated preak inverse volicase at 25°C, and under	conditions of cooling exceeds 1,000 volts per junction; (d) controlled diodes (i.e., those which operate similarly to grid controlled gas-filled tubes) designed for use at switching rates (repetition frequency) higher than 100 kilocycles. (Specify type numbers and quantity, of each fype.)	Transistors and related devices having any of the following characteristics: (a) having our or more active junctions within any single block of semi-conductor material; (b) designed or rated for use as a switching transistor for switching rates (repetition frequency) greater than 300 megacycles;	(c) using a bulk semi-conductor material other than germanium; (d) using germanium as the bulk semi-conductor material and having any of the following characteristics: (l) an average f alpha less than 50 megacycles and designed to have a maximum collector dissipation in watts times # f alpha in meracycles greater than 7.5:	(2) an average I alpha of 50 to 150 mega- yeyles and designed to have a maximum collector dissipation greater than 150 milli- watts; or (3) an average I alpha greater than 150 megacyles. (Specify type num- bers and quantity of each type.) (3) 11 a Amplifiers (except audio frequency), n.e.c.,	and specially labricated parts and accessories, n.e.c.:  Amplifiers having any of the following characteristics, and specially fabricated parts and accessories therefor; (e) designed to operate at frequencies in excess of 500 megacycles, (b) having a bandwidth meeter than 10 measonades.	rent amplifiers having a noise level (referred to the input circuit) of 10-18 watts or less. (3) 19 frequencies from 300 to 500 megacycles; and specially fabricated parts and accessories therefor. (3) 1 1 11
Dept. of Com- merce Schedule B No.	70848					70848		*	70879	70879
_									. ,	
Commodity lists	4 .	4	4		₹			₹ ,		
	ВО Ф	RO A			RO A		ВО	80 A		· · · · · · · · · · · · · · · · · · ·
Commodity lists	None RO A	50 RO A			·		SS SS			
Vall. Gommodity license lists re-	<u> </u>				RO			В0		
GLV Vall. dollar dated dend lists limits re- re- quired	o. ELME 1. None	io. RARA 1 50			0. RARA 1 50 RO		0. RABA 2 50	vo. RARA1 50 RO	7	•
Processing GLV Vall.  code and collar dated commodity related value license license group.	o. ELME 1. None	io. RARA 1 50	dissipation in access of 10 watta under any condition of cooling; (e) subministure tubes indirectly heated baying diameter less than 0.283 inch; (d) designed to with-stand strand sinchion at peak accelerations greater than 5 g for over 100 hours and at any frequency between 25 and 170	cycles per second; (e) designed to with- stand swept frequency sinusoidal vibra- tions between 60 and 1,000 cycles per sec- ord, at a peak acceleration greater than 4 g for over 200 hours; (f) designed to with- stand shocks greater than 1,000 g (accelera- tion under gravity; (g) having ceranic envelopes and designed for frequencies	0. RARA 1 50 RO	spects of more than 300 kilometers per second; (c) with 3 or more electron guns; (d) alpha-numeric and similar data or information displayed position of each those in which the displayed position of each character is fred. (Specify type number and quantity of each type.) [Report television estabode-ray tubes in 7028 and 7082.]	0. RABA 2 50	vo. RARA1 50 RO	heigh, (v) subminance these than the solution of the solution	between 60 and 1,000 cycles per 190 and 100 cycles per 190 and 100 cycles per 190 and 190 cycles per 190 and 190 cycles per 19

See footnotes at end of table.

	lity						i				/	•	-,
	Commodity lists	4	•	<b>→</b>	∢	<b>4</b> · ·			◀		<b>∢</b>		4 <b>4</b>
	Validated license re-	, RO	ж0	В0	В0	RO.	, 0#	RO	, BO	O#	R0	<b>4</b>	8
	GLV dollar value limits	200	000	200	909 -	200	200	200	200	000	200	00, /	None
	Processing code and related commodity group	TOOL 1	TOOL	TOOL3	TOOL 3	TOOL 3	T00L 4	T00L 4		4 700F	TOOL 9	TOOL 10	GIEQ 3
	Unit			No.	ě	No.	No.	No.			No. No.		No.
,	Commodity description	Accessory equipment, n.e.c., etc.—Con. Accessories, n.e.c., for use exclusively on types of machine tools included on the Positive List under Schedule B Nos. 74621 through 74450 which are subject to the IC/DV procedure. (Specify type and model of machine tool with which accessories are to be used.)	(3) x Accessories, n.e.c., for use exclusively on types of machine tools included on the Positive List under Schedule B Nos. 74039 through 74450 which are not subject to the IOJDV procedure. (Specify type and model of machine tool with which accessories are to be used.) (3 and 4) 3 x	Metalworking hydraulic presses, power driven, including forging presses. Hydraulic presses specially designed or capable of the working or forming of metallic or nonested to 1900°C is 11.21.	Metalworking mechanical presses, power driven: Mechanical presses specially designed or capa- ble of the working or forming of metallic or nonneckallic substances with melting points in excess of 1900° C. u 1 15.	Forging machines and hammers, except hydraulic forging presses:  Forging hammers as follows: (a) counter-blow libraries thaving rated sizes of 25,000 kilogram meters (181,260 foot-pounds) or more; (b) bordzontal impact hammers bydraulically activated, harving rated sizes of 10,000	foot-pounds (1,382,54 kilogram meters) or more. (Specify type and rated size.) (2) <sup>19</sup> Forging hammers as follows: (a) having falling weight exceeding 10 tons: (b) steam, air. or mechanical hammers of rated size	exceeding 10 tons. (Specify type, falling weight, or rated size.) (2) 3 b 19 Other horizontal impact hammers, n.e.c. (Scouttracted size ) (A) 26	Part's and accessories, n.e.c., specially fabricated for other metal-forming machine tools included on the Positive List under Schedule B Nos. 74459 through 74469 which are subject to the IC/IDV procedure. (Specify rated capacity of machine on which parts and accessories will be used.) (3) if	Parts and accessories, n.e., specially fabricated for metal-forming machine tools included on the Positive List under Schedule B Nos. 74489 through 74469 to control to both R and O country destinations and not subject to the IC/DV procedure. (Specify rated capacity	on informer our wincen parts after accessories will be used.) (2 and 3) # Metalworking machines, n.e.c., and specially fabricated parts and accessories, n.e.c., Spin-forming machines with spindle drive motor over 25 housespower. (8) ## Spin-forming machines with spindle drive spin-forming machines with spindle drive	motor 15 up to and including 25 horsepower.  (9) 14 Parts and accessories, n.e.c., for spin-forming machines with spindle drive motor 15 up to and including 25 horsepower. (10) 11	7 Funity, n.e.v.: 7 Parts and accessories, n.e.v., specially fabricated for pumps. (Oomplee knockdown pumps should be reported in the proper pump classifications, whether the integral components are shipped simultaneously or in a series of partial shipments):
	Dept. of Com- merce Schedule B No.	74457	74457	74459	74461	74466	74466	74466	74468	74468	74601	74601	71177
	Commodity lists	¥				, (		¥		∢			
	Con	, , ,			_	۲ ′		~4	·			. •	
		RO		RO	ВО	RO.	RO	RO RO	RO	RO	RO	RO	ВО
	GLV Validollar dated value license limits re-	, .		100 RO	100 RO	-	,500 RO		500 RO		500 RO		None BO
	GLV Validollar dated value license limits re-	RO			<del>-</del>	RO.	005/.	RO BO		ВО		ж о	
	GLV Validollar dated value license re-	BARA1 100 RO		RARA 2 100	100	7 . 100 RO	005/.	<ul> <li>TOOL 2 500 RO</li> <li>TOOL 1 500 RO</li> </ul>	to, TOOL 2 500	TOOL 1 600 RO	TOOL 2 500	TOOL 1 None RO	TOOL 2 None
	Prócessing GLV Vali- code and dollar dated related value icense commodity limits re- group	BARA1 100 RO	frequencies; (c) waveguides having a bandwidth ratio greater than 1.5:1; (d) waveguide components, n.e., as follows: (u) directional couplers having a bandwidth ratio greater than 1.5:1; and directivity over the band of 15 decibels or more; (2) circulators using gyro-magnetic properties; (3) rotary joints capable of	RARA 2 100	NONF 8 100	Lb NONF 7 100 RO	No. TOOL 2 500	<ul> <li>TOOL 2 500 RO</li> <li>TOOL 1 500 RO</li> </ul>	to, TOOL 2 500	TOOL 1 600 RO	TOOL 2 500	TOOL 1 None RO	TOOL 2 None
	Prócessing GLV Vali- code and dollar dated Unit related value license commodity limits re- group quired	y 8: 6:00 11	hequencies; (c) waveguides having a bandwidth ratio greater than 1.5:1; (d) waveguide components, n.e., as follows: (l) directional complex having a bandwidth ratio greater than 1.5:1 and directivity over the band of 15 decibels or more; (2) citculators using gyro-magnetic properties; (3) rotary joints capable of	RARA 2 100	act nickel and min. to 5 min.	Lb NONF 7 100 RO	Lathes, n.e. c.; Lathes, n.e. c.; Right angle (T) lathes (in which the bed is at right angles to the spindle.) (6) 14 Bel-type milling machines (single and multiple spindle);	<ul> <li>TOOL 2 500 RO</li> <li>TOOL 1 500 RO</li> </ul>	TOOL 2 500	TOOL 1 600 RO	2 200	TOOL 1 None RO	None

See footnote at end of table.

	Commodity. lists	<b>4</b>		<b>M</b>	, <b>⊲</b>	· Œ	· .	<b>⋖</b>	•	₹	<b>⋖</b>	<b>⋖</b>
	Validated license re-	во		RO (	, RO	C		, RO		RO	RO	ж,
	GLV. dollar value limits	100		100	100	. 5		None		, None	None	None
	Processing code and related commodity group	GIEQ 11		GIEQ 12	GIEQ 11	GIRO 12		GIEQ 15	• .	TRAN 1	TRAN 1	TRAN 1
	Unit	No.	•	No.					•	o Z	ON	No.
	Commodity description	Pipe valves, brass, bronze, etc.—Con. Pipe valves, n.e.c., and specially fabricated parts and accessories, n.e.c.; Nonmetal valves, cocks, or pressure regulators designed to operate at temperatures below minus 130° C.; or with flow contact surfaces made of or lined with any of the following materials: (a) 90 percent or more	tantalum, titanium, or zirconium, either separately or combined; (b) 50 percent or more cobalt or molybdenum, either separately or combined; (e) polybertalluor roethylene; or (d) polybritiluorochlorothylene; (Give full specifications.)	Other nonmetal valves, cocks, or pressure regulators incorporating any of the fol- lowing materials: (a) 90 percent or more tantalum, titanium, or zirconium, either senemetal or combined: (b) 50 percent or	more cobalt or molybdenum, either separately or combined; (c) polyfetrafluore-eitylene; or (d) polytrifluoreolnorehiylene; or (d) polytrifluoreolnorehiylene. (Give full specifications.) (f) 3 is parts and accessories, n.e.e., specially fabri-	acted to Yavley, cooks, or pressure regulators included on the Positive List under Schedule B Nos. 77450 through 77465 which are subject to the ICJDV procedure. (Specify Schedule B number of valve for which parts are intended, and full specifications.) (2) 110 Parts and accessories, n. e.c., sneedally shri-	cated for valves, cocks, or pressure regu- lators included on the Positive List under Schedule B Nos. 77450 through 77455 which are not subject to the IC/IDV pro- cedure. (Specity Schedule B number of	Agnyon (mint) pages are interdect, and full, specifications.) (2) 3 19 Individual manufacturing and service-industries machines, n.e.c., and specially fabricated parts and accessories, n.e.c Equipment for the manufacture of semi-conductor materials as follows: (a) equipment	specially designed for the production or processing of dendritic forms of any semi-conductor material or combination thereof, suitable for use in diodes or transistors; and (b) equipment specially designed for puritying or otherwise processing silicon and	Germanium. (14 and 17) 1st 1st 1st 2st 2st 2st 2st 2st 2st 2st 2st 2st 2	inquened geses as follows: (8) I quant fun- rine containers of 250 galions capacity or over; and (10) other liquefied gas contain- ers of 500 gallons capacity or over; wi Milliary, equipped with Jacketed containers for the korge or transportation of lique- fied gases as follows: (8) liquid fluorine	containers of 250 gallons capacity or ever; and (b) other liqueded gas containers of 500 gallons capacity or over. (1) <sup>14</sup> <sup>17</sup> <sup>14</sup> ,001 <sup>15</sup> <sup>16</sup> ,000 lbs. GV. W., gasoline, new: Commercial, equipped with jacketed containers for the storage or transportation of liqueded gases as follows: (a) liquid fluorer: and (b) other liqueded gas containers of 250 gallons capacity or over; and (b) other liqueded gas containers of 500 gallons capacity or
£.	Dept. of Com- merce Schedule B No.	77465	,	77465	77465	77465	.,	77599	•	79019	. 13051.	79023
1	Commodity	₹	ja L	4		<b>4</b> 1	/ E4			¥		E
				-								
	Validated license re-	RO				RO ,	RO			жо .		
			- Çd			100 ВО	, 100 RO			100 RO ·		100 RO
	Validated license required	. \		2								
	GLV Vall- dollar dated value license limits re-	10. GIEQ 11 100	01 OTES			io. GIEQ 11 100				No. GIEQ.11 100		7100
	Processing GLV Valicode and collar disted related value license commodity limits regroup	GIEQ 11 100	01 OTES	incorporating any of the following materials: (4) 90 percent or more tartalium, titalium, or zirconium, either separately or combined; (b) 50 percent or more cobalt or molybdelum, either separately or molybdelum, either separately or		io. GIEQ 11 100		(a) 90 percent or more threating.  (b) 80 percent or more threating.  (c) 16 percent or more cobalt or molybdent, either separately or combined;  (d) 16 percent or more cobalt or molybdent, either separately or combined;  (e) 16 percent or more or threating or combined;  (f) 16 percent or more or conditions.	(2) as a control or regulating pipe valves, a Automatic control or regulating pipe valves, n.e.c. (any pipe valve having a mechanism partially integral, i.e., directly attached by adaptors and bolts, or wholly integral, s. for automatically regulating or controlling	No. GIEQ.11 100	supparately or combined; (b) 50 percent or separately or combined; (b) 50 percent or nore cobalt or molybelenum, either separately or combined; (c) polytetraflorocethylene; or (d) polytrifluorochlorocethylene; (Give full specifications.)	Q1EQ.12

See footnotes at end of table.

Dept. of Com- merce Schedule B No.	Commodity description	Unit	Processing code and related commodity group	GLV dollar value limits	Validated license re-	Commodity lists	Dept. of Com- merce Schedule B No.	. Commodity description	Unit	Processing code and related commodity group	GLV dollar value limits	Validated license re- quired	Commodity lists
79025	<u> </u>	o N	TRAN 1	None	RO	4	79043	Diesel and semi-diesel motor trucks, etc.—Con. 19,301 lbs. G. V. W., and over, diesel and semi-diesel, new: Commercial, equipped with jacketed containers for the storage or transportation of liqueded gases as follows: (a) liquid fluorine containers of 250 gallons espacity.	o Z	TRAN,	None	RO	₹
79027	Journal sepacity of cover. (11) with 16,001 to 19,500 hs. G.V.W., gasoline, new. Commercial, equipped with jackted containers for the stonage or transportation of liquefled gases as follows: (a) liquid fluorine containers of 220 gallons capacity or over: and (b) other lioneffed gas con.	N .	TRAN 1	None	RO	· <b>4</b>	79045	or over; and (b) often fluctuded gas containers of 500 gallons capacity or over; 10 In Military, equipped with jacketed containers of the theory of the stooge or transportation of liquefied gases as follows: (a) liquid fluctude gases as follows: (a) liquid fluctude originers of 250 gallons capacity or over; and (b) other liquided gas containers of	No.	TRAN 1	None	RO	4
79029	¥	.o. ′	TRAN 1	None	RO	⋖ •	79113	500 gallons capacity or over, 1s 15 Special-purpose vehicles, new, n.e.c.: Commercial, equipped with jacketed containers for the storage or transportation of liquefied gases as follows: (a) liquid fluorine containers of 250 gallons capacity or over, and (b) other liquefied gas containers of 50	No.	TRAN 1	None	RO	. ≟. <b>4</b>
79031	(1) M. 19, 20, to 26,000 lbs. G.V.W., gasoline, new: Commercial, equipped with jacketed containers for the storage or transportation of liquebled gases as follows: (a) liquid fluorine containers of Sog gallons capacity or over; and (b) other liquebled gas con-	No.	TRAN 1	None	RO	<b>∢</b>		gallons capacity or over 10 17 Military, equipped with jacketed containers Not the storage or transportation of liquicfied gases as follows: (a) liquid fluorine containers of 220 gallons capacity or over; and (b) other liquicfied gas containers of 500 gallons capacity or over.	N.0.	TRAN 1	None	RO	∢
79033		No.	TRAN 1	None	RO	∢	79130	Used motor trucks, busses, and chassis, includ- ing truck-tractors, and used special-purpose vehicles: Commercial, equipped with jacketed contain- ers for the stonege or transportation of lique- fied gases as follows: (a) liquid fluorine con- tainers of 250 gallons capacity or over; and (b) other liquidad as containers of 501		TRAN 1	None	RO	∢ ,
79035			TRAN 1	None	RQ	4	79133	gallons capacity or over 1st 1.  Military, equipped with jacketed containers for the storage or transportation of ilquefications of or the storage or transportation of ilquefications capacity or over; and (b) caber ilquefied gas containers of 250 gallons capacity or over; and (b) capacity or over. (1) 1st	No.	TRAN 1	None	RO	<b>⊲</b> t.
79037	Milltary, equipped with jacketed containers for the storage or transportation of lique fled gases, as follows: (a) liquid fluorine containers of 250 gallons capacity or over; and (b) other liquefied gas containers of 500 gallons capacity or over; 500 gallons capacity or over;	No.	TRAN 1	None	R0	<b>4</b> , ;	79136	in 79735]: Trailers, truck or truck-tractor type, capacity 5 tons or over, new or used, equipped with jacketed containers for the storage or transportation of liquefled gases as follows: (a) flquid, fluorine containers, of 250 gallons	Ö,	TRAN 1	, None	RO	<b>∢</b>
	Diseas and semi-disea indoor trucks and truck chassis, including truck-tractors, new, n.e.c. (G.V.W., or gross vehicle weight, is the greatest weight of vehicle in load which the manufacturer authorizes and guarantees the vehicle to accommodate with safety under normal conditions of operation?  19,500 lbs. G.V.W., and under, diesel and semi-			:		-	79139	copacity or over; and (1) offers "liqueled gus containers of 500 gallons capacity or over; <sup>101</sup> Commercial trailers, new or used, n.e.c., equipped with jacketed containers for the storage or transportation of liquefed gases as follows: (a) liquid fluorine containers of 250 gallons capacity or over; and (b) other liquefed gas containers of 500 gallons capacity or over; and (b) other liquefed gas containers of 500 gallons capacity.	No.	TRAN 1	None	RO	₹
79039	diesel, metal, equipped with jacketed containers for the storage or transportation of liquefled gases as follows: (a) liquid fluorine orders, and (b) other liquefled as containers of 250 gallous appacity or order, and (b) other liquefled as containers.	No.	TRAN 1	None	RO	. ◀	79142	Jacketed tanks designed as parts of commer- cial trailers, for the storage or transportation of liquefied gases as follows: (a) liquid fluorine containers of £30 gailons capacity or over: and (h) other liquefied gas, con-	, No.	TRAN 1	None	RO	<b>á</b>
1001	ers of 500 gallous capacity or over. <sup>19 17</sup> Milliary caughpod with jacked containers for the storage or transportation of lique fied gases as follows: (s) liquid fluorine containers of 250 gallons capacity or over; and (b) other liquefied gas containers, of 500 gallons capacity or over. (1) <sup>19 17</sup>	e N	TRAN 1	None	R0	<b>∀</b>	79145	tainers of 500 gallons capacity or over 1011 Military trailers. naw or used, equipped with 1 jacketed containers for the storage or transportation of iquefied gases as follows: (a) liquid fluorine containers of 250 gallons capacity or over; and (b) other liquidfied gas containers of 500 gallons capacity or over; and (b) other liquidfied gas containers of 500 gallons capacity or over; and (c) other liquidfied gas containers of 500 gallons capacity or over.	, , , , , , , , , , , , , , , , , , ,	TRAN 1	None	R0	<b>₫</b>

ee footnotes at end of table.

Dept. of Com- merce Schedule B No.	Commodity description	Unit	Processing code and related commodity group	GLV dollar value limits	Validated license required	Commodit <b>y</b> lists
79261	Parts and accessories for commercial automobiles, trucks, and busses: Parts and accessories, n.e.c., specially fabricated, for assembly: Jacketed tanks for the storage or transportation of liquefied gases as follows: (a) liquid fluorine containers of 250 gailons capacity or over, and (b) other liquefied gas containers of 500 gailons capacity or over. 18 17	. No.	TŖAN 1	None	RO	` <b>A</b>
79262	Parts, n.e.c., specially fabricated for spares, replacement, or manufacture into larger components:  Jacketed tanks for the storage or transportation of liquefled gases as follows: (a) liquid fluorine containers of 250 gallons capacity or over; and (b) other liquefled gas con-	No.	TRAN 1	None	RO	A
79277	tainers of 500 gallons capacity or over. 16 17 Jacketed tanks for military trucks and trailers for the storage or transportation of liquefied gases as follows: (a) liquid fluorine containers of 250 gallons capacity or over; and (b) other liquefied gas containers of 500 gallons capacity	No.	TRAN 1	None	RO	
79660	or over. (2) is 17 Railroad cars, new, equipped with jacketed containers for the storage or transportation of liquefled gases as follows: (a) liquid fluorine containers of 250 gallons capacity or over; and (b) other liquefled gas containers of 500 gallons capacity or over. is 17	No.	CONS 11	500	RO	<b>A</b>
<b>- 79</b> 675	Raifroad cars, used or rebuilt, equipped with jacketed containers for the storage or transportation of liquefled gases as follows: (a) liquid fluorine containers of 250 gallons capacity or over; and (b) other liquefled gas containers of	No.	CONS 11	500	RO	A /:
79698	500 gallons capacity or over. 16 17 Jacketed tanks (specially designed as parts of railway cars) for the storage or transportation of liquefied gases as follows: (a) liquid fluorine containers of 250 gallons capacity or over; and (b) other liquefied gas containers of 500 gallons capacity or over. 16 17 Coal-tar intermediates, and other cyclic inter-	No.	CONS 11	500	, RO	A
80257 83990	mediates, except acids: Diphenylamine 3 - Cobalt carbonate, cobalt hydroxides, cobalt oxalate, cobalt oxides, cobalt sulfide, and cobalt phosphide. (2) 3 4	Lb. Lb.	ORGN 2 SALT 2	100 100	RO RO	·
8399Q	Industrial chemicals, n.e.c.:  Germanium compounds 99.99 percent or better purity. (5) 3 5		SALT 2	None	ъ	*
84290	Pigments: Cobalt oxide <sup>3 5</sup>	Lb.	SALT 2	100	RO	

\* The processing code is changed or related commodity group number is changed (see § 372.5(f) of this chapter).

\* The symbol "A" is deleted in the column headed "Commodity Lists," indicating that the commodity is no longer subject to the IC/DV procedure (see § 373.2 of this chapter).

\* The symbol "E" is deleted in the column headed "Commodity Lists," indicating that the commodity may no longer be exported under the Periodic Requirements licensing procedure (see part 376 of this chapter), effective Mar. 2. 1960.

- longer be exported under the Periodic Requirements licensing procedure (see part 376 of this chapter), effective Mar. 2, 1960.

  18 The commodity coverage is increased, effective Feb. 8, 1960.

  18 Some commodities under this revised entry are not presently subject to the IC/DV procedure. Effective Mar. 17, 1960, all such commodities become subject to that procedure (see § 373.2 of this chapter).

  18 The parenthetical phrase referring to "Monel" is deleted.

  19 Two entries are substituted for an entry presently on the Positive List under this Schedule B number.

  20 Three entries are substituted for an entry presently on the Positive List under this Schedule B number.

  21 Three entries are substituted for two entries presently on the Positive List under this Schedule B number.

  22 Formerly included in the first and third entries/presently on the Positive List under this Schedule B number.

  23 Items included in the first entry on the Positive List under this Schedule B number which do not meet the specifications set forth in this revised entry are included in the second entry and are no longer subject to the IC/DV procedure.

  24 Tubes included in the fifth entry on the Positive List under this Schedule B number which do not meet the specifications set forth in this revised entry are included in the second entry and are no longer subject to the IC/DV procedure.

specincations set form in this ferical case, and measures.

28 A new entry is established which includes some presses formerly included in the last entry on the Positive List under this Schedule B number.

29 A reporting requirement is added.

27 Two entries are substituted for two entries presently on the Positive List under this Schedule B number.

28 The word "incorporating" is revised to read "with flow contact surfaces made of or lined with."

This item of the amendment shall become effective as of February 1, 1960, except as otherwise indicated in the footnotes.

Shipments of any commodities removed from general license to Country Group R or Country Group O destinations as a result of changes set forth in this amendment which were on dock for lading, on lighter, laden aboard an exporting carrier, or in transit to a port of exit pursuant to actual orders for export prior to 12:01 a.m., February 8, 1960, may be exported under the previous general license provisions up to and including March 2, 1960. Any such shipment not laden aboard the exporting carrier on or before March 2, 1960, requires a validated license for export.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023. E.O. 9630, 10 F.R. 12245, 3 CFR, 1945 Supp., E.O. ·9919, 13 F.R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY, Director,

Bureau of Foreign Commerce.

[F.R. Doc. 60-1632; Filed, Feb. 25, 1960; 8:45 a.m.]

# Title 20—EMPLOYEES' BENEFITS

Chapter Il-Railroad Retirement - Board

#### PART 232—SPOUSE'S ANNUITIES

#### PART 237—INSURANCE ANNUITIES AND LUMP SUMS FOR SURVIVORS

#### Miscellaneous Amendments

Pursuant to the general authority contained in section 10 of the act of June 24, 1937 (50 Stat. 314, 45 U.S.C. 228(j)), §§ 232.201, 232.202, 232.204, 228(j)), §§ 232.201, 232.202, 232.204, 232.301, 232.302(a), 232.303, 232.401, the (d) of § 232.403 of Part 232 (20 CFR 232.201, 232.202, 232.204, 232.301, 232.302 (a), 232.303, 232.401, 232.403) of the regulations under such act are amended and §§ 232.304, 232.305 and 232.306 are added by Board Order 60-13, dated February 3, 1960, and §§ 237.701, 237.702 (b) and (f), the first two sentences and paragraphs (b), (c), and (d) of § 237.703, §§ 237.803, 237.806(a), and 237.902(b) of Part 237 (20 CFR 237.701, 237.702 (b) and (f), 237.703, 237.803, 237.806(a), 237.902 (b)) of the regulations under such act are amended and §§ 237.906, 237.907 and 237.908 are added by Board Order 60-12, dated February 3, 1960, to read as follows:

#### § 232.201 Statutory provisions.

A spouse who would be entitled to an annuity under subsection (e) if she or he had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by one one-hundred-andeightieth for each calendar month that the spouse is under age 65 when the annuity begins to accrue (section 2(h) of the act).

#### § 232.202 Eligiblity for an annuity.

The spouse of a retirement annuitant or pensioner shall be eligible for a spouse's annuity when such annuitant or pensioner has attained age 65 if:

- (a) The spouse has also attained age 65; or
- (b). The spouse is at least age 62, but the amount of the annuity shall be reduced by one one-hundred-and-eightieth for each calendar month during all of which the spouse is less than 65 years of age when the annuity begins to accrue: or
- (c) The spouse is a woman under age 65 who has in her care, individually or jointly with her husband, a child, who if the annuitant or pensioner were then to die, would be entitled to a child's insurance annuity under section 5(c) of the act.

#### § 232.204 Filing of application.

(a) No spouse, irrespective of his or her qualifications, shall receive an annuity unless a duly executed application, upon such form as the Board may from time to time prescribe, is filed with an office of the Board by or on behalf of the spouse on or before the date of death of the spouse.

(b) An application shall be considered filed with the Board as of the date that it is received at an office of the Board, or the date that it is, in accordance with § 210,2(a) of this chapter, delivered into the custody of a duly authorized field agent of the Board, whichever date is earlier: Provided however, That if in the adjudication of an application for an annuity it is determined that the applicant died on a Sunday or a day observed by the Board as a legal holiday and his application was received through the mails at an office of the Board on the first business day following such Sunday or such legal holiday, the application shall be deemed to have been filed with the Board on such Sunday or such legal holiday if it is established to the satisfaction of the Board that the application was mailed in sufficient time to have been received by the Board in the ordinary course of the mails on such Sunday or such legal holiday had it been a business day.

(c) The provisions of §§ 210.2(b), 210.4, 210.5, 210.7 through 210.13 of this chapter shall be applied to an application for a spouse': annuity in the same manner as applied to an application for an employee annuity.

#### § 232.301 Statutory provisions.

The spouse of an individual, \* \* \* shall be entitled to a spouse's annuity equal to one-half of such individual's annuity or pension, but not more, with respect to any month, than 110 per centum of an amount equal to the maximum amount which could be paid to anyone, with respect to such month, as a wife's insurance benefit under section 202(b) of the Social Security Act as amended from time to time: Provided how-ever. That if the annuity of the individual is awarded under paragraph 3 of subsection (a), the spouse's annuity shall be computed or recomputed as though such individual had been awarded the annuity to which he would have been entitled under paragraph 1 of said subsection: Provided further, That, if the annuity of the individual is awarded pursuant to a joint and survivor election, the spouse's annuity shall be computed or recomputed as though such individual had not made a joint and survivor election: And provided further, That any spouse's annuity shall be reduced by the amount of any annuity and the amount of any monthly insurance benefit, other than a wife's or husband's insurance benefit, to which such spouse is entitled, or on proper application would be entitled, under subsection (a) of this section or subsection (d) of section 5 of this Act or section 202 of the Social Security Act; except that if such spouse is disentitled to a wife's or husband's insurance benefit, or has had such benefit reduced. by reason of subsection (k) of section 202 of the Social Security Act, the reduction pursuant to this third proviso shall be only in the amount by which such spouse's monthly insurance benefit under said Act exceeds the wife's or husband's insurance benefit to which such spouse would have been entitled under that Act but for said subsection (k) (Section 2(e) of the act).

#### § 232.302 Amount of annuity.

(a) (1) A spouse's annuity for a month after August 1955 and before June 1959 shall be equal to one-half of the annuity or pension of the retired employee, but not more than the maximum amount which could be paid to anyone, with respect to such month, as a wife's insurance benefit under section 202(b) of the Social Security Act as amended from time to time.

(2) A spouse's annuity for a month after May 1959 shall be equal to onehalf of the annuity or pension of the retired employee, but not more than 110 percent of an amount equal to the maximum amount which could be paid to anyone, with respect to such month, as a wife's insurance benefit under section 202(b) of the Social Security Act as amended from time to time.

(3) The maximum spouse's annuity for a month after August 1955 and before June 1959 and for a month after May 1959 may be exceeded where the employee's annuity is computed as prescribed in § 225.6 of this chapter.

#### § 232.303 Reduction because of other benefits.

The spouse's annuity of an individual who is entitled, or on proper application would be entitled, to a retirement annuity or parent's insurance annuity under the Railroad Retirement Act. or to any monthly insurance benefit under the Social Security Act, other than a wife's or husband's insurance benefit, shall be reduced by the amount of such other benefits: Provided however, That where a spouse has not been awarded a wife's or husband's insurance benefit, or becomes disentitled to a wife's or husband's insurance benefit after having been awarded such benefit, or has had a wife's or husband's insurance benefit reduced because the spouse is or on proper application would be entitled to any other monthly insurance benefit under the Social Security Act, the reduction shall be limited to the amount by which such other monthly insurance benefit exceeds the wife's or husband's insurance benefit to which the spouse would otherwise be entitled.

#### § 232.304 Reduction because of age.

Where eligibility for a spouse's annuity is based on age 62 to 65, the amount of the annuity as computed under § 232.302 shall be reduced by one onehundred-and-eightieth for each calendar month during all of which the spouse is less than 65 years of age when the annuity begins to accrue.

#### § 232.305 Rounding annuity.

When awarded on or after September 6. 1958, a monthly spouse's annuity that is computed under this part and that is not a multiple of \$0.10, shall be rounded to the next higher multiple of \$0.10.

#### § 232.306 Commutation of annuity.

When awarded on or after September 6, 1958, a monthly spouse's annuity that is less than \$5 may be paid quarterly or in a lump sum equal to its commuted value as determined by the Board.

#### Statutory provisions.

The spouse's annuity provided in subsection (e) shall, with respect to any month, be subject to the same provisions of subsection (d) as the individual's annuity, and, in addition, the spouse's annuity shall not be payable for any month if the individual's annuity is not payable for such month (or, in the case of a pensioner, would not be payable if the pension were an annuity) by reason of the provisions of said subsection (d). Such spouse's annuity shall cease at the end of the month preceding the month in which (i) the spouse or the individual dies, (ii) the spouse and the individual are absolutely divorced, or (iil), in the case of a wife under age 65 (other than a wife who is receiving such annuity by reason of an election under subsection (h)), she no longer has in her care a child who, if her husband were then to die, would be entitled to an annuity under subsection (c) of section 5 of this Act (section 2(g) of the act).

#### § 232.403 Entitlement ends.

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Entitlement to a spouse's annuity under the act shall cease at the end of the month preceding the month in which any of the following events occurs:

\*

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(d) A wife annuitant under age 65 (other than a wife who is receiving the annuity by reason of an election under section 2(h) of the act) no longer has in her care a child who, if her husband were then to die, would be entitled to an annuity under section 5(c) of the act.

#### § 237.701 / Statutory provisions.

Deductions from annuities. (1) Deductions shall be made from any payments under this section to which an individual is entitled, until the total of such deductions equals such individual's annuity or annuities under this section for any month in which such individual-

(i) Will have rendered compensated service within or without the United States to

an employer;

- (ii) Will have been under the age of seventy-two and for which month he is charged with any earnings under section 203(e) of the Social Security Act or, having engaged in any activity cutside the United States, would be charged under such section 203(e) with any earnings derived from such activity if it had been an activity within the United States; and for purposes of this subdivision the Board shall have the authority to make such determinations and such suspensions of payment of benefits in the manner and to the extent that the Secretary of Health, Education, and Welfare would be authorized to do so under section 203(g)(3) of the Social Security Act if the individuals to whom this subdivision applies were entitled to benefits under section 202 of such Act: or
- (iii) If a widow otherwise entitled to an annuity under subsection (b) will not have had in her care a child of the deceased employee entitled to receive an annuity under subsection (c)
- (2) The total of deductions for all events described in paragraph (1) occurring in the same month shall be limited to the amount of such individual's annuity or annuities for that month. Such individual (or anyone in receipt of an annuity in his behalf) shall report to the Board the occurrence of any event described in paragraph (1).

  (3) Deductions shall also be made from

any payments under this section with respect to the death of an employee until such deductions total-

(i) Any death benefit, paid with respect to the death of such employee, under sections 5 of the Retirement Acts (other than a survivor annuity pursuant to an election);

(ii) Any lump sum paid, with respect to the death of such employee, under title II of the Social Security Act.

(4) The deductions provided in this subsection shall be made in such amounts and at such time or times as the Board shall determine. Decreases or increases in the

total of annuities payable for a month with respect to the death of an employee shall be equally apportioned among all annuities in such total. \* \* \* (Section 5(i) of the act)

§ 237.702 Deductions because an individual works or a widow fails to have a child in her care.

(b) Work other than employer service-(1) When deductions imposed. Deductions are to be made from any annuity or annuities payable to an individual under this part for any month:

(i) Beginning with the individual's 1955 taxable year and through 1958 in which the individual is under age 72 and is charged, in accordance with the provisions of subparagraph (3) of this paragraph, with earnings from covered and noncovered employment within the United States and covered employment outside the United States; or after 1954 and through 1958 in which the individual is under age 72 and on seven or more different calendar days of which he is engaged in noncovered remunerative activity outside the United States (see subparagraph (7) of this paragraph).

(ii) After 1958 in which the individual is under age 72 and is charged, in accordance with the provisions of subparagraph (3) of this paragraph, with earnings from covered and noncovered employment within the United States: or in which the individual is under age 72 and is engaged in an activity outside the United States and would be charged, in accordance with the provisions of subparagraph (3) of this paragraph, with earnings derived from it if it had been an activity within the United States.

(2) Amount of deductions. amount to be deducted shall be equal to the annuity or total of annuities payable to the individual in the month in which the event specified in either subdivision of subparagraph (1) of this paragraph occurred.

(3) Charging of earnings. This subparagraph provides the method by which an individual will be charged on the basis of his "earnings," which term is defined in subparagraph (6) of this paragraph.

(i) For taxable years beginning after 1954 and ending before September 1958. With respect to taxable years beginning after 1954 and ending before September 1958 and for purposes of deductions under this section, an individual will be charged only on the basis of his earnings and then only if such earnings in his taxable year exceed \$100 times the number of months in such year. Where there is such an excess, the first \$80 of such excess (or the whole of the excess if it is less than \$80) is charged to the latest month in the taxable year. The next \$80 of the excess, if any (or the whole of the excess if it is less than \$80), is charged to the next preceding month and so forth until all of the excess is charged or every month to which a portion of the excess is chargeable has been charged with a part of such excess.

(ii) For taxable years beginning after August 1958. With respect to taxable years beginning after August 1958 and for purposes of deductions under this section, an individual will be charged only on the basis of his earnings and

then only if such earnings in his taxable year exceed \$100 times the number of months in such year. Where there is such an excess, the first \$80 of such excess (or the whole of the excess if it is less than \$80) is charged to the first month in the taxable year. The next \$80 of the excess, if any (or the whole of the excess if it is less than \$80), is charged to the next succeeding month and so forth until all of the excess is charged or every month to which a portion of the excess is chargeable has been charged with a part of such excess.

(4) Months to which earnings cannot be charged—(i) Taxable years beginning after 1954 and ending before September 1958. Notwithstanding the provisions of subparagraph (3) of this paragraph, earnings in excess of \$100 times the number of months in the individual's taxable year beginning after 1954 and ending before September 1958 shall not be charged to any month:

(a) In which the individual was not entitled to an annuity;

(b) In which the individual was engaged in noncovered remunerative activity outside the United States for which he suffered a deduction under subparagraph (1) (i) of this paragraph;

(c) In which the individual is a widow who suffered a deduction because of the occurrence of the event specified in paragraph (c) of this section;

(d) In which the individual was 72 years of age or over; or

(e) In which the individual did not engage in self-employment and did not render services for wages, as defined in subparagraph (6) (ii) of this paragraph, of more than \$80. (An individual shall be deemed to have engaged in self-employment in any month if in such month he renders substantial services, as defined in subparagraph (5) of this paragraph, in operating a trade or business as owner or partner, even though there may be no earnings or net earnings from self-employment attributable to his services for such month; and he will be presumed with respect to any month to have rendered services for wages, as defined in subparagraph (6)(ii) of this paragraph, of more than \$80 until it is shown to the satisfaction of the Board that he did not render services in such month for more than such amount.)

(ii) Taxable years beginning after August 1958. Notwithstanding the provisions of subparagraph (3) of this paragraph, earnings in excess of \$100 times the number of months in the individual's taxable year beginning after August 1958 shall not be charged to any month:

(a) In which the individual was not entitled to an annuity;

(b) In which the individual was engaged in noncovered remunerative activity outside the United States for which he suffered a deduction under subparagraph (1) (i) of this paragraph;

(c) In which the individual is a widow who suffered a deduction because of the occurrence of the event specified in paragraph (c) of this section;

(d) In which the individual was 72 years of age or over; or

(e) In which the individual did not engage in self-employment and did not render services for wages, as defined in subparagraph (6) (ii) of this paragraph, of more than \$100. (An individual shall be deemed to have engaged in selfemployment in any month if in such month he renders substantial services. as defined in subparagraph (5) of this paragraph, in operating a trade or business as owner or partner, even though there may be no earnings or net earnings from self-employment attributable to his services for such month; and he will be presumed with respect to any month to have rendered services for wages, as defined in subparagraph (6) (ii) of this paragraph, of more than \$100 until it is shown to the satisfaction of the Board that he did not render services in such

month for more than such amount.)
(5) Definition of "substantial services." For the purposes of subparagraph (4) of this paragraph, an individual engaged in self-employment is presumed to have rendered substantial services in each month in his taxable year. However, he may submit evidence to establish that in any month in such taxable year he did not render substantial services with respect to any trade or business the net income or loss of which is includible in computing his earnings (but without regard to subparagraph (6) (ii) of this paragraph) for any taxable year if such taxable year begins after 1954. In determining whether an individual has rendered such substantial services in a month, the particular facts in his case will be examined. The following factors. among others, will be considered in making the determination:

. (v) The presence or absence of a paid manager, a partner, or a family member who manages the business;

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(vi) The type of business establishment that is involved; and

(vii) The relationship of the activity performed prior to the period of retirement with that performed subsequent to retirement.

(6) Definition of earnings. When the term "earnings" is used in this paragraph and not as a part of the phrase "net earnings from self-employment," it shall mean an individual's earnings with respect to a taxable year beginning after 1954 and includes the sum of his wages, as defined in subdivision (ii) of this subparagraph, for services rendered in such year and his net earnings from selfemployment, as defined in subdivision (i) of this subparagraph, for such year minus any net loss from self-employment, as defined in subdivision (i) of this subparagraph, for such year. With respect to a taxable year ending after 1955. an individual's earnings also include his basic pay for active duty, within or outside the United States, in the military or naval service of the United States.

٠ (ii) Wages. For purposes of this subparagraph and subparagraph (4) of this paragraph, an individual's wages shall be determined under section 209 of the Social Security Act (but without regard to the limitations as to amounts of remuneration specified in subsections (a), (g)(2), (g)(3), (h)(2), and (j) of such section); and in making such computa-

tion, services which do not constitute "employment" as that term is defined in section 210 of the Social Security Act performed within the United States by an individual as an employee or performed outside the United States in the active military or naval service of the United States, shall be deemed to be employment as so defined if the remuneration for such services is not includible in computing his net earnings from self-employment or net loss from selfemployment, as defined in subdivision (i) of this subparagraph.

(7) Definition of noncovered remunerative activity outside the United States. An individual shall be considered to be engaged in noncovered remunerative activity outside the United States if he performs services outside the United States as an employee and such services do not constitute "employment" as that term is defined in section 210 of the Social Security Act and are not performed in the active military or naval service of the United States, or if he carries on a trade or business outside the United States (other than the performance of service as an employee) the net income or loss of which is not includible in computing his net earnings from self-employment, as defined in section 211(a) of the Social Security Act, for a taxable year and would not be excluded from net earnings from self-employment, if carried on in the United States, by any of the numbered paragraphs of such section 211(a). When used in the preceding sentence with respect to a trade or business (other than the performance of service as an employee) the term "United States" does not include Puerto Rico or the Virgin Islands in the case of an alien who is not a resident of the United States (including Puerto Rico and the Virgin Islands); and the term "trade or business" shall have the same meaning as when used in section 162 of the Internal Revenue Code of 1954.

\* \* (f) Total amount to be deducted. If. however, any of the events occasioning the deduction under paragraph (a), (b). or (c) of this section occurs in more than one month, the total amount to be deducted is equal to the sum of the deductions for all months in which any such event occurred. With respect to earnings under paragraph (b) (1) of this section, a deduction event is deemed to have occurred in any month to which any excess of earnings is charged (see paragraph (b) (3) of this section).

#### § 237.703 Deductions because of deathbenefit payments.

Section 5(i)(3) of the act provides for certain deductions from any insurance annuities or lump-sum death payments under section 5 on the basis of the insured status of a deceased employee. The basis for and the amount of each of these deductions are set out in paragraphs (a) and (b) of this section.

(b) Lump-sum death payments under Social Security Act. The total amount of any lump sum paid under title II of the Social Security Act with respect to the death of an employee must be deducted from any insurance annuities under this part based on the insured status of that deceased employee.

(c) Manner of making deductions. If more than one person is entitled to any insurance annuity or annuities, or to any lump-sum death payment, under this part on the basis of the insured status of the same deceased employee, the deduction required under paragraph (a) or (b) of this section is made from the insurance annuity or annuities, or from the share of the lump sum, to which each such person is entitled in the proportion that his insurance annuity or annuities for a month, or his share of the lump sum, bears to the total of such insurance annuities for a month, or the total of such lump sum.

In any case in which a deduction under paragraph (a) or (b) of this section is to be made from an insurance annuity under this part, such deduction will be made in the following manner:

(1) If the individual had been receiving an insurance benefit under the Social Security Act and ceased to be entitled thereto because of the provisions of section 5(g) (1) of the Railroad Retirement Act, as amended, the deduction is made by withholding, to the extent hereinafter indicated, the amount designated in such paragraph (a) or (b) of this section from any such insurance annuity to which such individual is or becomes entitled on the basis of the insured status of the employee referred to in such paragraph. Upon determination that such a deduction is required, there will be withheld from the insurance annuity the amount by which such insurance annuity exceeds the amount of the insurance benefit to which the individual has been so entitled under the Social Security Act; this with-holding will be continued until such time as the total of the amounts thus withheld from the insurance annuity equals the amount to be deducted from such insurance annuity.

(2) (i) If the case is not within the purview of subparagraph (1) of this paragraph, the deduction of the amount designated in paragraph (a) or (b) of this section is made by actuarial recovery from any insurance annuity under this part to which such individual is or becomes entitled on the basis of the insured status of the employee referred to in such paragraph: Provided however, That the deduction is not less than the amount of the insurance annuity for a month: Provided further, That the actuarial reduction does not exceed the amount of the insurance annuity for a month: And provided further, That such individual does not request the withholding of the entire monthly insurance annuity until the total amount withheld equals the total amount to be recovered. If the deduction is less than the amount of the insurance annuity, or if the actuarial reduction exceeds the amount of the insurance annuity for a month, or if the individual specifically so requests, the deduction is made by withholding until the accumulated withholdings equal the total amount to be recovered.

(ii) In any case in which a deduction under paragraph (a) or (b) of this sec-

tion is to be made from lump-sum death payments under this part, such deduction will be made by withholding the amount designated in such paragraph from any such lump-sum death payments to which any incividual is or becomes entitled on the basis of the insured status of the employee referred to in such paragraph. Upon determination that such a deduction is required. no such lump-sum death payment will be paid until a total amount equal to the amount to be deducted has been withheld. If the amount to be deducted is less than the lump sum then payable. the amount to be deducted will be withheld from such lump sum.

(d) Relation to other provisions. (1) When deductions are to be made under this section from an insurance annuity or insurance annuities, the amounts to be deducted are measured by and are withheld from the amount of the insurance annuity, or the amounts of the insurance annuities, as reduced or increased under section 5(h) of the act

(see Subpart F of this part).

(2) A deduction required under this section is made in addition to any deductions required under section 5(i)(1) of the act (see § 237.702), and in addition to any adjustment under Part 255 of this chapter.

#### § 237.803 Filing date of application.

An application for any payment under this part shall be considered filed with the Board as of the date it is received at an office of the Board, or the date it is delivered into the custody of a duly authorized field agent, specifically authorized to receive custody thereof in the district where delivery is made, whichever date is earlier: Provided however, That if, in the adjudication of an application, filed by or on behalf of any person, for a payment under this part, it is determined that such person's interests would be adversely affected by the fact that the application mailed to the Board was not received by the Board until the first business day following a Sunday or other non-work day on which the offices of the Board were closed, rather than on such Sunday or other non-work day, such application shall be considered as filed on such Sunday or other non-work day if it is established to the satisfaction of the Board that the application was mailed in sufficient time to have been received by the Board on such Sunday or other non-work day.

#### § 237.806 Filing of application.

(a) With Social Security Administration. (1) The claim or application of an individual filed with the Social Security Administration on or after October 1, 1946, for an insurance benefit or a lump-sum death payment under subsection (c), (d), (e), (f), or (g) of section 202 of title II of the Social Security Act, as amended August 10, 1946, based upon the death of an individual who has had service covered under the Railroad Retirement Act, as amended July 31, 1946. shall be deemed to be an application for the corresponding survivor benefit under subsection (a), (b), (c), (d), or (f) of section 5 of the Railroad Retirement Act, and shall be deemed filed with the Board on the date as of which the Social Security Administration certifies that such application is deemed filed with that agency.

(2) In the case of any individual who would be entitled to benefits under subsection (a), (b), (c), or (d) of section 5 of the act upon filing proper application therefor, the filing with the Administrator of Veterans' Affairs by or on behalf of such individual of an application for benefits, on the form prescribed under section 601 of the Servicemen's and Veterans' Survivor Benefits Act, shall satisfy the requirement of subsection (j) of section 5 that an application for such benefits be filed, and shall be deemed filed with the Board on the date as of which such application would be deemed filed with the Social Security Administration.

# § 237.902 Act of March 7, 1942 (56 Stat. 143, 144).

(b) Relation to application for lumpsum death payments. For the purposes of §§ 237.502(a) (3) and 237.503(a) (3), if the deceased employee is a person to whom section 2 of the act of March 7, 1942, is applicable, the two-year period of limitation for the filing of an application runs from the date on which he was determined, under that act, to be dead.

# § 237.906 Rounding of insurance annuity.

When awarded on or after September 6, 1958, a monthly insurance annuity that is not a multiple of \$0.10 shall be rounded to the next higher multiple of \$0.10.

#### § 237.907 Effect of felonious homicide.

An individual who has been finally convicted by any court of competent jurisdiction of the felonious homicide of an employee shall not be entitled to any benefits under the act by reason of the death of such employee, and shall be considered non-existent in determining the entitlement of others to benefits based on the earnings of such employee.

#### § 237.908 Escheat.

Any part of a payment under section 5 of the act which would otherwise escheat to a State shall not be allowed.

(Sec. 10, 50 Stat. 314, 45 U.S.C. 228(j))

Dated: February 19, 1960.

By authority of the Board.

MARY B. LINKINS, Secretary of the Board.

[F.R. Doc. 60-1723; Filed, Feb. 25, 1960; 8:46 a.m.]

# PART 330—DETERMINATION OF DAILY BENEFIT RATES

# Daily Rate of Compensation; Mileage Rate

Pursuant to the general authority contained in section 12 of the act of June 25, 1938 (52 Stat. 1094, 1107; 45 U.S.C. 362) § 330.2(b) of Part 330 (24 F.R. 12)

of the regulations under such act is amended by Board Order 60-14, dated February 3, 1960, to read as follows:

#### § 330.2 Daily rate of compensation.

(b) Mileage rate. Where a mileage rate is reported, it shall be considered that the employee's daily rate of compensation is his rate of pay for 100 miles or for 150 miles, depending upon his occupation and class of service, including any allowance per 100 miles or per 150 miles which is added to his basic rate per 100 miles or per 150 miles.

(Sec. 12, 52 Stat. 1107, as amended; 45 U.S.C. 362)

Dated: February 18, 1960.

By authority of the Board.

Mary B. Linkins, Secretary of the Board.

[F.R. Doc. 60-1724; Filed, Feb. 25, 1960; 8:46 a.m.]

Chapter III—Bureau of Old-Age and Survivors Insurance, Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 4, further amended]

# PART 404—FEDERAL OLD-AGE AND SURVIVORS INSURANCE (1950—

#### Procedures, Payment of Benefits, and Representation of Parties

Regulations No. 4, as amended (20 CFR 404.1 et seq.), are further amended as follows:

1. Section 404.901 is amended to read as follows:

# § 404.901 Procedures, payment of benefits, and representation of partics.

The provisions contained in this Subpart J shall govern the procedures for determining and reviewing entitlement to, and the payment of, benefits and lump sums, determining and reviewing rights with respect to establishment and continuance of a period of disability, and the revision of earnings records, and the representation of parties, provided for in the regulations in this Part 404.

2. New §§ 404.902 to 404.981, inclusive, are added to follow § 404.901:

# § 404.902 Persons to whom payments are made.

Payments on behalf of an individual. When it appears to the Administration that the interest of an individual would be served thereby, the Administration may certify any amount to be paid to such individual under title II of the act, either for direct payment to him or to another person for and on his behalf, regardless of such individual's physical or mental competency or incompetency. The Administration may, at any time, withhold certification of payment until a guardian, committee, or other legal representative has been appointed who is duly authorized to receive payments for and on behalf of such individual.

§ 404.903 Submission of evidence by representative payee.

Before any amount shall be certified for payment to any person for and on behalf of another individual, such person shall submit to the Administration such evidence as may be required of his authority to receive such payment or of his relationship to, or connection with, the individual on whose behalf payment is made. The Administration may, at any time thereafter, require evidence of the continued existence of such authority, relationship, or connection. Where the person to whom payment is made is not the regularly appointed guardian, conservator, or other legal representative, he shall, upon request of the Administration, account for the funds he has so received and upon failure to so account the payments to him shall be discontinued.

#### § 404.904 Joint payments to a family.

Where amounts are to be paid under title II of the act to two or more individuals who are members of the same family, the Administration may, in its discretion, certify the total of such amounts for joint payment to such individuals.

§ 404.905 Initial determination; determinations affecting benefits, lump sums, establishment and continuance of periods of disability, and earnings records.

(a) Entitlement to benefits and lump sums. The Bureau shall make findings, setting forth the pertinent facts and conclusions, and an initial determination with respect to the entitlement to benefits or a lump sum (see Subpart D) of any party to the determination who has filed an application for benefits or a lump sum. The determination shall include the amount, if any, to which the party is entitled, as reduced or increased pursuant to sections 202(d)(2), 202(j) (1), 202(k) (3), 202(m), 202(q), 203(a), 203(b), 203(c), 203(f), 203(g) (2), 204 (a), or 222(b) of the act, or 224 of the act before its repeal in 1958, wherever applicable.

(b) Modification of the amount of benefits or a lump sum. The Bureau shall, under the circumstances hereafter stated, make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether:

(1) An individual or, where appropriate, his survivor may obtain a recomputation or recalculation of such individual's primary insurance amount and, if so, the amount thereof (see §§ 404.260 through 404.278), or

(2) Benefits to which an individual is entitled should be paid under section 202(k) (2) or (3) or 202(s) (2) of the act, and, if so, the amount thereof; or

(3) There should be a reduction under section 203(a) of the act, or section 224 of the act prior to its repeal in 1958, or deduction under section 203 (b), (c), (f), (g) (2), or 222(b) of the act with respect to benefits to which an individual is entitled, because of circumstances existing at or after such entitlement, and, if a reduction or deduction is to be made, the amount thereof; or

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- (4) There has been an overpayment or underpayment of benefits or a lump sum and, if so, the amount thereof (see §§ 404.504 and 404.505), and the adjustment, under section 204(a) of the act (see §§ 404.502 and 404.503), to be made by increasing or decreasing the benefits or lump sum to which an individual is entitled; or
- (5) An adjustment or recovery of an overpayment is to be waived under section 204(b) of the act (see §§ 404.506 to 404.512). Such findings of fact and determination shall be made whenever it appears to the Bureau, or whenever a party requests in writing, that, as provided above, a reduction, deduction or increase should be made or terminated, or that an adjustment or recovery should be made or waived.
- (c) Establishment of a period of disability. The Bureau (after any determination as to the existence of disability by the appropriate State agency which may be made under a Federal-State agreement pursuant to section 221(b) of the act) shall make findings, setting forth the pertinent facts and conclusions, and an initial determination with respect to the entitlement to a period of disability of any party who has filed an application for a period of disability. The determination shall include the date such period of disability begins.
- (d) Termination of benefits or periods of disability. The Bureau (or, in a disability claim, a State agency when required by a Federal-State agreement pursuant to section 221(b) of the act) shall, with respect to a party who has been determined to be entitled to benefits, or a period of disability, make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether, under the applicable provisions of sections 202, 216(i) and 223 of the act, such party's entitlement to benefits, or period of disability, has ended and, if so, the last month of such entitlement or period of disability. Such findings of fact and determination shall be made whenever it appears to the Bureau that such party's entitlement to benefits, or a period of disability, has ended. The suspension of benefits pursuant to section 202(t) of the act shall be considered to be a termination thereof for purposes of this section.
- (e) Reinstatement of benefits. The Bureau shall, with respect to an individual whose benefits have been determined to have ended under paragraph (d) of this section, make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether the individual is entitled to a reinstatement of the benefits thus ended and, if so, the effective date of such reinstatement. Such findings of fact and determination shall be made whenever a party makes a written request for reinstatement or whenever evidence is received which justifies such reinstatement.
- (f) Support of husband, widower, parent, and former wife divorced. The Bureau shall make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether a husband or widower was receiving at least one half of his support from an in-

- sured individual at the time of such insured individual's entitlement to old-age or disability insurance benefits or at the beginning of a period of disability, if any, of such insured individual which continued up to the time of her entitlement to such benefits; or as to whether a widower, parent or former wife divorced was receiving at least one half of such support at the time of the insured individual's death or at the beginning of a period of disability, if any, of such insured individual which continued up to the time of his or her death. Such findings of fact and determination shall be made when evidence of such support is submitted by the party at a time prior to the filing of an application by him or her for husband's, widower's, parent's, or mother's insurance benefits, but, except as otherwise provided in § 404.612, within 2 years after the appropriate date referred to in §§ 404.717-404.720 of Subpart H of this part.
- (g) Revision of an earnings record. When a request for the revision or further revision of an individual's earnings record is filed in accordance with § 404.805 or § 404.806, and § 404.810, the Bureau shall make findings, setting forth the pertinent facts and conclusions, and an initial determination as to whether the Administration's record of such individual's wages or self-employment income should be revised, either by changing the records as to the amount or the time of payment of wages or selfemployment income or by entering or deleting items of wages or self-employment income. Any determination that an earnings record shall be revised shall specify the amount of any increase or decrease to be made, the amount of any item to be included or deleted, and the period or periods to which earnings are to be credited on the record.
- (h) Applicant's failure to submit evidence. Whenever an applicant for benefits, a lump sum, or a period of disability has failed to submit evidence of entitlement to such benefits, lump sum, or period of disability, as may be requested by the Bureau pursuant to any provision of Subpart H of this part, the Bureau may make an initial determination disallowing the applicant's claim for benefits, a lump sum, or a period of disability. Such determination shall specify the conditions of entitlement which the applicant failed to establish through his failure to submit the requested evidence.
- (i) Administrative action; underpayment not subject to adjustment. When there is an underpayment of benefits or a lump sum due an individual now deceased, and adjustment thereof cannot be made or completed by increasing subsequent benefits payable on the same earnings record, the Bureau shall make findings and an initial determination as to the amount of such underpayment not subject to adjustment and as to whom such underpayment should be paid on behalf of the estate of the deceased individual.

# § 404.906 Administrative actions which are not initial determinations.

Administrative actions which shall not be considered initial determinations under any provision of the regulations in this Subpart J include, but are not limited to, the following:

- (a) The suspension of benefits pursuant to section 203(g)(3) of the act (see § 404.425) pending investigation and determination of any factual issue as to the applicability of a deduction or deductions under section. 203(b) of the act (see § 404.408).
- (b) The suspension of benefits pursuant to section 245 of the act pending investigation and determination as to the cessation of the disability of an individual entitled to benefits under section 202(d) or 223 of the act.
- (c) The appointment or continuance of a representative payee for and on behalf of a beneficiary under Title II of the act (see § 404.902).
- (d) The certification of any two or more individuals of the same family for joint payment of the total benefits payable to such individuals (see § 404.904).

# § 404.907 Notice of initial determina-

Written notice of an initial determination shall be mailed to the party to the determination at his last known address. except that no such notice shall be required in the case of a determination that a party's entitlement to benefits has ended because of such party's death (see § 404.905(d)). If the initial determination disallows, in whole or in part, the application or request of a party, or if the initial determination is to the effect that a husband, widower, parent, or former wife divorced was not receiving the requisite support from an insured individual, or that a party's entitlement to benefits has ended, or that a reduction, deduction, or adjustment is to be made in benefits or a lump sum, or that a period of disability established for a party has terminated, the notice of the determination sent to the party shall state the basis for the determination. Such notice shall also inform the party of the right to reconsideration (see § 404.910) unless such determination is to the effect that a deduction, or, except in disability claims, a termination, is to be made and such determination is based only upon facts reported to the Bureau by the party to the determination. Notice of termination because of cessation of disability shall inform the party to the determination of the right to reconsideration, even where the termination was based on a report to the Bureau by the party to the determination that his condition improved or that he returned to work.

# § 404.908 Effect of initial determina-

The initial determination shall be final and binding upon the party or parties to such determination unless it is reconsidered in accordance with §§ 404.910–404.916, or it is revised in accordance with § 404.956.

#### § 404.909 Reconsideration and hearing.

Any party who is dissatisfied with an initial determination may request that the Bureau reconsider such determination, as provided in § 404.910. If a request for reconsideration is filed, such action shall not constitute a waiver of

the right to a hearing subsequent to such reconsideration if the party requesting such reconsideration is dissatisfied with the determination of the Bureau made on such reconsideration; and a request for a hearing may thereafter be filed, as is provided in § 404.917.

# § 404.910 Reconsideration; right to reconsideration.

The Bureau shall reconsider an initial determination if a written request for reconsideration is filed, as provided in § 404.911, by the party to the initial determination (see § 404.905). The Bureau shall also reconsider an initial determination (see §§ 404.905 (a) to (f), inclusive), unless the determination is with respect to the revision of the Administration's earnings records, if a written request for reconsideration is filed, as provided in § 404.911, by an individual as a wife, widow, former wife divorced, husband, widower, child, parent, individual alleging equitable entitlement to a lump sum, or representative of a decedent's estate, who makes a showing in writing that his or her rights with respect to benefits, a lump sum, or a period of disability may be prejudiced by such determination. The Bureau shall also reconsider an initial determination relating to the revision of the Administration's record of the earnings (see § 404.905(g)) of a deceased individual if a written request for reconsideration is filed, as provided in § 404.911, by such individual's widow, former wife divorced, widower, child, parent, an individual alleging equitable entitlement to a lump sum, or representative of such individual's estate.

# § 404.911 Time and place of filing request.

The request for reconsideration shall be made in writing and filed at an office of the Bureau or, in the case of an individual having 10 or more years of service in the railroad industry (see Subpart O of this part) or of an individual entitled to an annuity on the basis of an award under the Railroad Retirement Act prior to October 30, 1951, who requests in writing reconsideration with respect to his application to establish a period of disability under section 216(i) of the act, at an office of the Railroad Retirement Board, within 6 months from the date of mailing notice of the initial determination, unless such time is extended as provided in § 404.612 or § 404.953.

#### § 404.912 Parties to the reconsideration.

The parties to the reconsideration shall be the person who was the party to the initial determination (see § 404.-905), and any other person referred to in § 404.910 upon whose request the initial determination is reconsidered.

#### § 404.913 Notice of reconsideration.

If the request for reconsideration is filed by a person other than the party to the initial determination, the Bureau shall, before such reconsideration, mail a written notice to such party at his last known address, informing him that the initial determination is being recon-

sidered. In addition, the Bureau shall give such party a reasonable opportunity to present such evidence and contentions as to fact or law as he may desire relative to the determination.

#### § 404.914 Reconsidered determination.

The Bureau shall, when a request for reconsideration has been filed, as provided in §§ 404.910 and 404.911, reconsider the initial determination in question and the findings upon which it was based; and upon the basis of the evidence considered in connection with the initial determination and whatever other evidence is submitted by the parties or is otherwise obtained, the Bureau shall make a reconsidered determination affirming or revising, in whole or in part, the findings and determination in question.

# § 404.915 Notice of reconsidered determination.

Written notice of the reconsidered determination shall be mailed to the parties at their last known addresses. The reconsidered determination shall state the basis therefor and inform the parties of their right to a hearing (see § 404.917).

# § 404.916 Effect of reconsidered determination.

The reconsidered determination shall be final and binding upon all parties to the reconsideration unless a hearing is requested in accordance with § 404.918 and a decision rendered or unless such determination is revised in accordance with § 404.956.

#### § 404.917 Hearing.

Right to hearing. Any party designated in § 404.919 shall be entitled to a hearing with respect to any matter designated in § 404.905, after an initial and reconsidered determination has been made by the Bureau (see §§ 404.905 to 404.916, inclusive), if such party files a written request for a hearing, as provided in § 404.918.

# § 404.918 Time and place of filing request.

The request for hearing shall be made in writing and filed at an office of the Bureau, or with a hearing examiner, or the Appeals Council, or, in the case of an individual having 10 or more years of service in the railroad industry (see Subpart O of this part) or of an individual entitled to an annuity on the basis of an award under the Railroad Retirement Act prior to October 30, 1951, who requests in writing a hearing with respect to his application to establish a period of disability under section 216(i) of the act, at an office of the Railroad Retirement Board. The request for hearing must be filed within 6 months after the date of mailing notice of the reconsidered determination to such individual. except where the time is extended as provided in § 404.612 or § 404.954.

#### § 404.919 Parties to a hearing.

The parties to a hearing shall be the person or persons who were parties to the initial determination in question and the reconsideration. Any other in-

dividual may be made a party, if such individual's rights with respect to benefits, a lump sum, or a period of disability may be prejudiced by the decision, upon notice given to him by the hearing examiner to appear at the hearing or otherwise present such evidence and contentions as to fact or law as he may desire in support of his interest.

# § 404.920 Additional parties to the hearing.

The following individuals, in addition to those named in § 404.919, may also be parties to the hearing. Unless the hearing is with respect to the revision of an earnings record established and maintained by the Administration, a wife, widow, former wife divorced, husband, widower, child, parent, individual alleging equitable entitlement to a lump sum, or representative of a decedent's estate, who makes a showing in writing that his or her rights to benefits or a lump sum, as appropriate, may be prejudiced by any decision that may be made. may be a party to the hearing. Where the hearing is with respect to the revision of an individual's earnings record, the widow, former wife divorced, widower, child, or parent of such individual, an individual alleging equitable entitlement to a lump sum, or representative of such individual's estate, may after his death, be made a party to the hearing upon filing a written notice of his or her desire to be a party.

#### -§ 404.921 Hearing examiner.

The hearing provided for in this Subpart J shall, except as herein provided, be conducted by a hearing examiner designated by the Director of the Office of Hearings and Appeals or his delegate. In an appropriate case, the Director may designate another hearing examiner or a member or members of the Appeals Council to conduct a hearing, in which case the provisions of this Subpart J governing the conduct of a hearing by a hearing examiner shall be applicable thereto.

# § 404.922 Disqualification of hearing examiner.

No hearing examiner shall conduct a hearing in a case in which he is prejudiced or partial with respect to any party, or where he has any interest in the matter pending for decision before him. Notice of any objection which a party may have to the hearing examiner who will conduct the hearing, shall be made by such party at his earliest opportunity. The hearing examiner shall consider such objection and shall, in his discretion, either proceed with the hearing or withdraw. If the hearing examiner withdraws, another hearing examiner shall be designated by the Director of the Office of Hearings and Appeals or his delegate to conduct the hearing. If the hearing examiner does not withdraw, the objecting party may, after the hearing, present his objections to the Appeals Council, as provided in §§ 404.945-404.949, as reasons why the hearing examiner's decision should be revised or a new hearing held before another hearing examiner.

#### $\S$ 404.923 Time and place of hearing.

The hearing examiner shall fix a time and place for the hearing, written notice of which, unless waived by a party, shall, not less than 10 days prior to such time, be mailed to the parties at their last known addresses, or given to them by personal service. Written notice of the objections of any party to the time and place fixed for a hearing shall be filed by the objecting party with the hearing examiner at the earliest practicable opportunity. The notice shall state the reasons for the party's objection and his choice as to the time and place for the hearing. The hearing examiner may, for good cause, fix a new time and/or place for the hearing.

#### § 404.924 Hearing on new issues.

At any time after a request for hearing has been made, as provided in § 404.918, but prior to the mailing of notice of the decision, the hearing examiner may, in his discretion, either on the application of a party or his own motion, in addition to the matters brought before him by the request for hearing, give notice that he will also consider any specified new issue (see § 404.905) whether pertinent to the same or a related matter, and whether arising subsequent to the request for hearing, which may affect the rights of such party even though the Bureau has not made an initial and reconsidered determination with respect to such new issue: Provided, That notice of the time and place of the hearing on any new issue shall, unless waived, be given to the parties within the time and manner specified in § 404.923: And provided further. That the claim is not one within the jurisdiction of a State agency under a Federal-State agreement pursuant to section 221(b) of the act. Upon the giving of such notice, the hearing examiner shall, except as otherwise provided, proceed to hearing on such new issue in the same manner as he would on an issue on which an initial and reconsidered determination has been made by the Bureau and a hearing requested with respect thereto by a party entitled to such hearing.

# § 404.925 Change of time and place for hearing.

The hearing examiner may change the time and place for the hearing, either on his own motion or for good cause shown by a party. The hearing examiner may adjourn or postpone the hearing, or he may reopen the hearing for the receipt of additional evidence at any time prior to the mailing of notice to the party of the decision in the case. Reasonable notice shall be given to the parties of any change in the time or place of hearing or of an adjournment or a reopening of the hearing.

#### § 404.926 Sübpoenas.

When reasonably necessary for the full presentation of a case, a hearing examiner or a member of the Appeals Council, may, either upon his own motion or upon the request of a party, issue subpoenas for the attendance and testimony of witnesses and for the production of books,

records, correspondence, papers, or other documents which are relevant and material to any matter in issue at the hearing. Parties who desire the issuance of a subpoena shall, not less than 5 days prior to the time fixed for the hearing, file with the hearing examiner or at a district office of the Bureau a written request therefor, designating the witnesses or documents to be produced, and describing the address or location thereof with sufficient particularity to permit such witnesses or documents to be found. The request for a subpoena shall state the pertinent facts which the party expects to establish by such witness or document and whether such facts could be established by other evidence without the use of a subpoena. Subpoenas, as provided for above, shall be issued in the name of the Secretary of Health, Education, and Welfare, and the Social Security Administration shall pay the cost of the issuance and the fees and mileage of any witness so subpoenaed, as provided in section 205(d) of the act.

#### § 404.927 Conduct of hearing.

Hearings shall be open to the parties and to such other persons as the hearing examiner deems necessary and proper. The hearing examiner shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. If the hearing examiner believes that there is relevant and material evidence available which has not been presented at the hearing, the hearing examiner may adjourn the hearing or, at any time prior to the mailing of notice of the decision, reopen the hearing for the receipt of such evidence. The order in which evidence and allegations shall be presented and the procedure at the hearing generally, except as these regulations otherwise expressly provide, shall be in the discretion of the hearing examiner and of such nature as to afford the parties a reasonable opportunity for a fair hearing.

#### § 404.928 Evidence.

Evidence may be received at the hearing even though inadmissible under rules of evidence applicable to court procedure, subject to the provisions of the regulations in this Subpart J limiting the time within which the Administration's earnings records may be revised and limiting their use as evidence (see §§ 404.804-404.806).

#### § 404.929 Witnesses.

Witnesses at the hearing shall testify under oath or affirmation, unless they are excused by the hearing examiner for cause. The hearing examiner may examine the witnesses and shall allow the parties or their representatives to do so. If the hearing examiner conducts the examination of a witness, he may allow the parties to suggest matters as to which they desire the witness to be questioned, and the hearing examiner shall question the witness with respect to such matters if they are relevant and material to any issue pending for decision before him.

# § 404.930 Oral argument and written allegations.

The parties, upon their request, shall be allowed a reasonable time for the presentation of oral argument or for the filing of briefs or other written statements of allegations as to facts or law. Where there is more than one party to the hearing, copies of any brief or other written statement shall be filed in sufficient number that they may be made available to any party.

#### § 404.931 Record of hearing.

A complete record of the proceedings at the hearing shall be made. The record shall be transcribed in any case which is certified to the Appeals Council without decision by the hearing examiner (see §§ 404.939 and 404.942 to 404.944, inclusive), in any case where a civil action is commerced against the Secretary (see § 404.951), or in any other case when directed by the hearing examiner or the Appeals Council.

#### § 404.932 Joint hearings.

When two or more hearings are to be held, and the same or substantially similar evidence is relevant and material to the matters in issue at each such hearing, the hearing examiner may fix the same time and place for each hearing and conduct all such hearings jointly. Where joint hearings are held, a single record of the proceedings shall be made and the evidence introduced in one case may be considered as introduced in the others, and a separate or joint decision shall be made, as appropriate.

#### § 404.933 Consolidated issues.

When one or more additional issues are raised by the hearing examiner pursuant to § 404.924, such issues may, in the discretion of the hearing examiner, be consolidated for hearing and decision with other issues pending before him upon the same request for a hearing, whether or not the same or substantially similar evidence is relevant and material to the matters in issue. A single decision may be made upon all such issues.

# § 404.934 Waiver of right to appear and present evidence.

If all parties waive their right to appear before the hearing examiner and present evidence and contentions personally or by representative, it shall not be necessary for the hearing examiner to give notice of and conduct an oral hearing as provided in §§ 404.923 to 404.933, inclusive. A waiver of the right to appear and present evidence and allegations as to facts and law shall be made in writing and filed with the hearing examiner. Such waiver may be withdrawn by a party at any time prior to the mailing of notice of the decision in the case. Even though all of the parties have filed a waiver of the right to appear and present evidence and contentions at a hearing before the hearing examiner, the hearing examiner may, nevertheless, give notice of a time and place and conduct a hearing as provided in §§ 404.923 to 404.933, inclusive, if he believes that the personal appearance and testimony of the party or parties

would assist him to ascertain the facts in issue in the case. Where such a waiver has been filed by all parties, and they do not appear before the hearing examiner personally or by representative, the hearing examiner shall make a record of the relevant written evidence, including applications, written statements, certificates, affidavits, reports, and other documents which were considered in connection with the initial determination and reconsideration, and whatever additional relevant and material evidence the party or parties may present in writing for consideration by the hearing examiner. Such documents shall be considered as all of the evidence in the case and the decision, as provided for in § 404.939, shall be based on them.

# § 404.935 Dismissal of request for hearing; by application of party.

With the approval of the hearing examiner at any time prior to the mailing of notice of the decision, a request for a hearing may be withdrawn or dismissed upon the application of the party or parties filing the request for such hearing. A party may request a dismissal by filing a written notice of such request with the hearing examiner or orally stating such request at the hearing.

# § 404.936 Dismissal by abandonment of party.

With the approval of the hearing examiner, a request for hearing may also be dismissed upon its abandonment by the party or parties who filed it. A party shall be deemed to have abandoned a request for hearing if neither the party nor his representative appears at the time and place fixed for the hearing and either (a) prior to the time for hearing such party does not show good cause as to why neither he nor his representative can appear or (b) within 10 days after the mailing of a notice to him by the hearing examiner to show cause. such party does not show good cause for such failure to appear and failure to notify the hearing examiner prior to the time fixed for hearing that he cannot appear.

#### § 404.937 Dismissal for cause.

The hearing examiner may, on his own motion, dismiss a hearing request, either entirely or as to any stated issue, under any of the following circumstances:

- (a) Res judicata. Where there has been a previous determination or decision by the Secretary with respect to the rights of the same party on the same facts pertinent to the same issue or issues which has become final either by judicial affirmance or, without judicial consideration, upon the claimant's failure timely to request reconsideration, hearing, or review, or to commence a civil action with respect to such determination or decision (see §§ 404.911, 404.918, 404.946, and 404.951).
- (b) No right to hearing. Where the party requesting a hearing is not a proper party under section 205(b) of the act or does not otherwise have a right to a hearing under § 404.905 or § 404.917. This would include, but is not limited to, an individual claiming as a representa-

tive payee appointed pursuant to \$404.902 (see \$404.906).

(c) Hearing request not timely filed. Where the party has failed to file a hearing request timely pursuant to § 404.918 and the time for filing such request has not been extended as provided in § 404.612 or § 404.954.

(d) Death of party. Where the party who filed the hearing request dies and there is no information before the hearing examiner or the Bureau showing that an individual who is not a party may be prejudiced by the Bureau's determination which is the subject of the request for hearing; provided, that if, within 6 months from the date of mailing notice of the Bureau's reconsidered determination to the original party or within 3 months from the date notice of such dismissal is mailed to the original party at his last known address, whichever is later, any such other individual states in writing that he desires a hearing on such claim and shows that he may be prejudiced by the Bureau's initial determination, then the dismissal of the request for hearing shall be vacated.

# § 404.937a Notice of dismissal and right to request review thereon.

Notice of the hearing examiner's dismissal action shall be given to the parties or mailed to them at their last known addresses. Such notice shall advise the parties of their right to request review of the dismissal action by the Appeals Council (see § 404.945).

#### § 404.937b Effect of dismissal.

The dismissal of a request for hearing shall be final and binding unless vacated (see § 404.938).

# § 404.938 Vacation of dismissal of request for hearing.

A hearing examiner or the Appeals Council may, on request of the party and for good cause shown, vacate any dismissal of a request for hearing at any time within 6 months from the date of mailing notice of the dismissal to the party requesting the hearing at his last known address. In any case where a hearing examiner has dismissed the hearing request, the Appeals Council may, on its own motion, within 60 days after the mailing of such notice, review such dismissal and may, in its discretion, vacate such dismissal.

# § 404.939 Hearing examiner's decision or certification to Appeals Council.

As soon as practicable after the close of a hearing, the hearing examiner, except as herein provided, shall make a decision in the case or certify the case with a recommended decision to the Appeals Council for decision §§ 404.942-404.944). If the hearing examiner makes a decision in the case, such decision shall be based upon the evidence adduced at the hearing (§§ 404.923 to 404.933, inclusive) or otherwise included in the hearing record (see § 404.934). The decision shall be made in writing and contain findings of fact and a statement of reasons. A copy of the decision shall be mailed to the parties at their last known addresses.

# § 404.940 Effect of hearing examiner's decision.

The hearing examiner's decision, provided for in § 404.939, shall be final and binding upon all parties to the hearing unless it is reviewed by the Appeals Council (see §§ 404.948-404.950) or unless it is revised in accordance with § 404.956. If a party's request for review of the hearing examiner's decision is denied (see § 404.947) or is dismissed (see § 404.952), such decision shall be final and binding upon all parties to the hearing unless a civil action is filed in a district court of the United States, as is provided in section 205(g) of the act, or unless the decision is revised in accordance with § 404.956.

# § 404.941 Removal of hearing to Appeals Council.

The Appeals Council on its own motion may remove to itself any request for hearing pending before a hearing examiner. The hearing on any matter so removed to the Appeals Council shall be conducted in accordance with the requirements of §§ 404.924 to 404.938, inclusive. Notice of such removal shall be mailed to the parties at their last known addresses.

# § 404.942 Appeals Council proceedings on certification and review.

Procedure before Appeals Council on certification by the hearing examiner. When a case has been certified to the Appeals Council by a hearing examiner without decision (see § 404.939), the Appeals Council shall mail notice of such action to the parties at their last known addresses. Copies or a statement of the contents of the documents or other written evidence received in evidence in the hearing record, and a copy of the transcript of oral evidence adduced at the hearing, if any, or a condensed statement thereof, shall be made available to any party upon request. When a case has been certified to the Appeals Council by a hearing examiner for decision, the parties shall be given, upon their request. a reasonable opportunity to appear before the Appeals Council for the purpose of presenting oral argument. The parties shall also be given, upon their request, a reasonable opportunity to file briefs or other written statements of their allegations as to applicable fact and law. Where there is more than one party, copies of such brief or written statements shall be filed in sufficient number that they may be made available to any party requesting a copy or any other party designated by the Appeals Council.

# § 404.943 Evidence in proceeding before Appeals Council.

Evidence in addition to that admitted into the hearing record by the hearing examiner may not be received as evidence except where it appears to the Appeals Council that such additional evidence may affect its decision. If no additional material evidence is presented but such evidence is available and may affect its decision, the Appeals Council shall receive such evidence or designate a hearing examiner or member of the

Appeals Council before whom the evidence shall be introduced. Before such additional evidence is received. notice that evidence will be received with respect to certain matters shall be mailed to the parties, unless such notice is waived, at their last known addresses, and the parties shall be given a reasonable opportunity to present evidence which is relevant and material to such matters. When the additional evidence is presented to a hearing examiner or a member of the Appeals Council, a transcript or a condensed statement of such evidence shall be made available to any party upon request.

#### § 404.944 Decision of Appeals Council.

The decision of the Appeals Council, when a case has been certified to it by a hearing examiner along with his recommended decision, shall be made in accordance with the provisions of § 404.950.

#### § 404.945 Right to request review of hearing examiner's decision or dismissal.

If a hearing examiner has made a decision, as provided in § 404.939, or dismissed a request for hearing, as provided in §§ 404.935 through 404.937, any party thereto may request the Appeals Council to review such decision or dismissal.

# § 404.946 Time and place of filing request.

The request for review shall be made in writing and filed with an office of the Bureau, a hearing examiner, or the Appeals Council, or, in the case of an individual having 10 or more years of service in the railroad industry (see Subpart O of this part) or of an individual entitled to an annuity on the basis of an award under the Railroad Retirement Act prior to October 30, 1951, who requests in writing review with respect to his application to establish a period of disability under section 216(i) of the act, at an office of the Railroad Retirement Board. Such request shall be accompanied by whatever documents or other evidence the party desires the Appeals Council to consider in its review. The request for review must be filed within 60 days from the date of mailing notice of the hearing examiner's decision or dismissal, except as provided in § 404.612 or § 404.954.

# § 404.947 Action by Appeals Council on review.

The Appeals Council may dismiss (see \$404.952) or, in its discretion, deny or grant a party's request for review of a hearing examiner's decision, or may, on its own motion, within 90 days from the date of mailing notice of such decision, reopen such decision for review or for the purpose of dismissing the party's request for hearing for any reason for which it could have been dismissed by the hearing examiner (see §\$404.935 through 404.937). Notice of the action by the Appeals Council shall be mailed to the party at his last known address.

# § 404.948 Procedure before Appeals Council on review.

Whenever the Appeals Council determines to review a hearing examiner's decision (except when the case is remanded

to a hearing examiner in accordance with § 404.950), the Appeals Council shall make available for inspection by any party upon request copies or a statement of the contents of the documents or other written evidence upon which the hearing examiner's decision was based, together with a copy of the transcript of evidence adduced at the hearing, if any, or a condensed statement thereof. The parties shall be given, upon request, a reasonable opportunity to file briefs or other written statements of allegations as to fact and law. Copies of such brief or other written statements, where there is more than one party, shall be filed in sufficient number that they may be made available to any party requesting a copy and to any other party designated by the Appeals Council.

# § 404.949 Evidence admissible on review.

Evidence in addition to that introduced at the hearing before the hearing examiner, or the documents before the hearing examiner where such hearing was waived (see § 404.934), may not be admitted except where it appears to the Appeals Council that such evidence is relevant and material to an issue before it and thus may affect its decision. Where no such evidence is presented, and it appears to the Appeals Council that additional material evidence is available which may affect its decision, the Appeals Council shall receive such evidence and designate a hearing examiner or member of the Appeals Council before whom the evidence shall be introduced. Before additional evidence is admitted into the record, as provided in this section, notice that evidence will be received with respect to certain issues shall be mailed to the parties, unless such notice is waived, at their last known addresses, and the parties shall be given a reasonable opportunity to comment thereon and to present evidence which is relevant and material to such issues. When the additional evidence is introduced before a hearing examiner or a member of the Appeals Council, a transcript or a condensed statement of such evidence shall be made available to any party upon request.

# § 404.950 Decision by Appeals Council or remanding of case.

If a case is certified to the Appeals Council by a hearing examiner (see § 404.939), the Appeals Council shall make a decision. If the Appeals Council decides to review a hearing examiner's decision as provided in § 404.947, the Appeals Council may either make a decision in such case or remand the case to a hearing examiner for hearing and decision in accordance with the provisions of §§ 404.919 to 404.940, inclusive. which decision may be further reviewed as provided in this Subpart J. The decision of the Appeals Council, where the case is not remanded to a hearing examiner, shall be based upon the evidence received into the hearing record and such further evidence as the Appeals Council may receive, as provided in §§ 404.942, 404.943, 404.948, and 404.949. This decision shall be made in writing

and contain findings of fact, and a statement of reasons. A copy of the decision shall be mailed to the parties at their last known addresses.

# § 404.951 Effect of Appeals Council's decision or refusal to review.

The Appeals Council may deny a party's request for review or it may grant review and either affirm or reverse the hearing examiner's decision. The decision of the Appeals Council, or the decision of the hearing examiner where the request for review of such decision is denied (see § 404.947), shall be final and binding upon all parties to the hearing unless a civil action is filed in a district court of the United States, as provided in section 205(g) of the act, or unless the decision is revised in accordance with § 404.956.

#### § 404.952 Dismissal by Appeals Council.

The Appeals Council may dismiss a request for review or proceedings pending before it under any of the following circumstances:

(a) Upon request of party. Proceedings pending before the Appeals Council may, with the approval of the Appeals Council, be discontinued and dismissed upon written application of the party or parties who filed the request for review to withdraw such request.

(b) Death of party. Proceedings before the Appeals Council, whether on request for review or review on the motion of the Appeals Council, may be dismissed upon the death of a party only if the record affirmatively shows that there is no prejudiced individual who wishes to continue the action.

(c) Request for review not timely filed. A request for review of a decision by a hearing examiner shall be dismissed where the party has failed to file a request for review within the time specified in § 404.946 and the time for filing such request has not been extended as provided in § 404.612 or § 404.954.

# § 404.953 Extension of time to request reconsideration.

If a party to an initial determination desires to file a request for reconsideration, after the time for filing such request has passed (see § 404.911), such party may file a petition with the Bureau for an extension of time for the filing of such request. Such petition shall be in writing and shall state the reasons why the request for reconsideration was not filed within the required time. For good cause shown, the Bureau may extend the time for filing the request for reconsideration. except that no such extension shall be granted where the sole purpose of the request is to seek the revision of an individual's earnings record or of a finding as to wages or self-employment income in connection with an application for monthly benefits, a lump sum, or a period of disability, after such revision is precluded by the provisions of § 404.804 or § 404,806. Where the Bureau in a proper case has extended the time for filing such request, no revision of an individual's earnings record or of a finding as to wages or self-employment income may be made except as is otherwise provided in the regulations in this Subpart J.

hearing or review or begin civil action.

Any party to a reconsidered determination, a decision of a hearing examiner, or a decision of the Appeals Council may petition for an extension of time for filing a request for hearing or review or commencing a civil action in a district court, as the case may be, although the time for filing such request or commencing such action (see §§ 404.918 and 404.-946 and section 205(g) of the act) has passed. If an extension of the time fixed by § 404.918 for requesting a hearing before a hearing examiner is sought, the petition may be filed with a hearing examiner. In any other case, such petition shall be filed with the Appeals Council. The petition shall be in writing and shall state the reasons why the request or action was not filed within the required time. For good cause shown, a hearing examiner or the Appeals Council, as the case may be, may extend the time for filing such request or action, except that no such extension shall be granted where the sole purpose of the request is to seek the revision of an individual's earnings record or of a finding as to wages or self-employment income in connection with an application for benefits, a lump sum, or a period of disability, after such revision is precluded by the provisions of § 404.804 or § 404.806. Where a hearing examiner or the Appeals Council in a proper case has extended the time for filing such request or action, no revision of an individual's earnings record or of a finding as to wages or self-employment income may be made except as is otherwise provided in the regulations in this Subpart J.

#### § 404.955 Review by Appeals Council.

Where a hearing examiner has determined the matter of extending the time for filing such request (whether he has allowed or denied the request for such extension), the Appeals Council on its own motion may review such determination and either affirm or reverse it. In connection with this review, the Appeals Council may consider whatever additional evidence relevant to this request a party may wish to present.

#### § 404.956 Revision for error or other reason; time limitation generally.

(a) By the Bureau. Except as otherwise provided in §§ 404.960 and 404.960a. an initial or reconsidered determination of the Bureau (see §§ 404.905 and 404.-914) may be revised by the Bureau on its own motion or upon the petition of any party for a reason, and within the time period, prescribed in § 404.957.

(b) By a hearing examiner or the Appeals Council. Either upon the motion of the hearing examiner or the Appeals Council, as the case may be, or upon the petition of any party to a hearing, except as otherwise provided in §§ 404.960 and 404.960a, any decision of a hearing examiner provided for in § 404.939, may be revised by such hearing examiner or the Appeals Council, and any decision of the Appeals Council provided for in § 404.950. may be revised by the Appeals Council,

§ 404.954 Extension of time to request for a reason, and within the time period, prescribed in § 404.957.

> § 404.957 Reopening initial or reconsidered determinations of the Bureau, and decisions of a hearing examiner or the Appeals Council; finality of determinations and decisions.

> An initial or reconsidered determination of the Bureau or a decision of a hearing examiner or of the Appeals Council which is otherwise final under § 404.908, § 404.916, § 404.940, or § 404.951 may be reopened:

> (a) Within 12 months from the date of the notice of the initial determination (see § 404.907), to the party to such determination, or

> (b) After such 12-month period, but within 4 years after the date of the notice of the initial determination (see § 404.907) to the party to such determination, upon a finding of good cause for reopening such determination or decision, or

(c) At any time, when:

(1) Such initial or reconsidered détermination or decision was procured by fraud or similar fault of the claimant or some other person; or

(2) An adverse claim has been filed against the same earnings account: or

(3) An individual previously determined to be dead, and on whose account entitlement of a party was established. is later found to be alive; or

(4) The death of the individual on whose account a party's claim was denied for lack of proof of death is established by reason of his unexplained absence from his residence for a period of 7 years (see § 404.705); or

(5) The Railroad Retirement Board. pursuant to the Railroad Retirement Act, has awarded duplicate benefits on the same earnings account; or

(6) The initial or reconsidered determination or decision with respect to either entitlement to, or the amount of, any title II benefit of any individual either:

(i) Denies the individual on whose earnings account such benefit claim is based gratuitous wage credits for World War II or post-World War II military or naval service because another Federal Government agency (other than the Veterans' Administration) has erroneously certified that it has awarded benefits based on such service; or

(ii) Credits the earnings account of the individual on which such benefit claim is based with such gratuitous wage credits and another Federal Government agency (other than the Veterans' Administration) thereafter certifies that it has awarded a benefit based on the period of service for which such wage credits were granted.

(7) Such initial or reconsidered determination or decision was that the claimant did not have the necessary quarters of coverage for an insured status but thereafter earnings were credited to his account, pursuant to section 205(c)(5) (C), (D), or (G) of the act, which would have given him an insured status at the time of such determination or decision

if such earnings had been credited to his account then.

(8) Such initial or reconsidered determination or decision is unfavorable, in whole or in part, to the party thereto but only for the purpose of correcting clerical error or error on the face of the evidence on which such determination or decision was based.

#### § 404.958 Good cause for reopening a determination or decision.

"Good cause" shall be deemed to exist where:

- (a) New and material evidence is furnished after notice to the party to the initial determination;
- (b) A clerical error has been made in the computation or recomputation of benefits:
- (c) There is an error as to such determination or decision on the face of the evidence on which such determination or decision is based.

#### § 404.959 Finality of initial determinations or decisions on revision of earnings records.

Notwithstanding the provisions in § 404.957, a determination of the Bureau or decision of a hearing examiner or the Appeals Council on a revision of an earnings record (see § 404.905(g)) may be reopened only within the time period and subject to the conditions provided in section 205(c) (4) or (5) of the act, or within 6 months after the date of notice to the party to such determination or decision, whichever is later.

#### § 404.959a Finality of suspension of benefit payments for entire taxable year because of earnings.

Notwithstanding the provisions in § 404.957, a suspension of benefit payments for an entire taxable year because of earnings therein, may be reopened only within the time period and subject to the conditions provided in section 203(g)(1)(B) of the act, as amended in 1958.

#### § 404.960 Time limitation for revising finding as to earnings.

No determination of the Bureau or decision of a hearing examiner or the Appeals Council shall be revised after the expiration of the normal period for requesting reconsideration, hearing or review, or commencing a civil action with respect to such determination or decision (see §§ 404.911, 404.918, 404.946, and 404:951) to correct a finding as to wages or self-employment income, unless the correction of such finding is permitted under section 205(c) (4) or (5) of the act (see §§ 404.804-404.806).

#### § 404.960a Time limitation for revising finding suspending benefit payments for entire taxable year because of earnings.

No determination of the Bureau or decision of a hearing examiner or the Appeals Council shall be revised after the expiration of the normal period for requesting reconsideration, hearing or review, or commencing a civil action with respect to such determination or decision (see §§ 404.911, 404.918, 404.946, and 404.951) to correct a finding which suspends benefit payments for an entire taxable year because of earnings therein, unless the correction of such finding is permitted under section 203(g) (1) (B) of the act, as amended in 1958.

#### § 404.961 Notice of revision.

When any determination or decision is revised, as provided in § 404.956, § 404.960 or § 404.960a, notice of such revision shall be mailed to the parties to such determination or decision at their last known addresses. The notice of revision, which is mailed to the parties, shall state the basis for the revision and inform the parties of their right to a hearing, as provided in § 404.963.

# § 404.962 Effect of revised determina-

Except as provided in § 404.612, the revision of the determination or decision shall be final and binding upon all parties thereto unless a party files a written request for a hearing in accordance with § 404.963.

# § 404.963 Time and place of requesting hearing on revised determination.

The request for hearing shall be made in writing and filed at an office of the Bureau, or with a hearing examiner, or the Appeals Council, within 6 months of the date notice was mailed to the party of the Bureau's revised determination. Upon the filing of such a request, a hearing with respect to such revision shall be held (see §§ 404.919–404.938) and a decision made in accordance with the provisions of § 404.939.

#### § 404.964 Finality of findings in a claim for benefits with respect to other claims on the same earnings record.

Findings of fact made in a determination or decision in a claim by one party for benefits or a lump sum may be revised in determining or deciding another claim for benefits or lump sum on the same earnings record, even though such findings may not be revised in the former claim because of the provisions of § 404.957, except that a finding in connection with a claim that an individual was fully or currently insured at the time he filed his application, at the time of his death, or at any other pertinent time, may be revised only under the conditions specified in § 404.957.

#### § 404.965 Imposition of deductions.

The imposition of deductions constitutes an initial determination with respect to each month for which a deduction is imposed. A finding that a deduction is not to be imposed is an initial determination for each month with respect to which the circumstances upon which such finding was based remain unchanged. The suspension of benefits, pursuant to § 404.425, pending a determination as to the applicability of a deduction or deductions under section 203(b) of the act or the suspension of benefits pending a determination as to cessation of disability, shall not, however, constitute an initial determination (see § 404.906 (a) and (b)).

# § 404.966 Change of ruling or legal precedent.

"Good cause" shall be deemed not to tional exist where the sole basis for reopening claim.

the determination or decision is a change of legal interpretation or administrative ruling upon which such determination or decision was made.

#### § 404.967 General applicabilitý.

The provisions of §§ 404.957 to 404.959 and 404.964 to 404.966, both inclusive, shall be applicable nothwithstanding any provision to the contrary in this Subpart J.

#### § 404.968 Certification of payment.

Determination or decision providing for payment. When a determination or decision has been made under any provision of §§ 404.905 to 404.963, inclusive. to the effect that a payment or payments under title II of the act should be made to any person, the Administration shall, except as hereafter provided, certify to the Managing Trustee of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as appropriate, the name and address of the person to be paid (see § 404.902), the amount of the payment or payments from the appropriate Trust Fund, and the time at which such payment or payments should be made.

# $\S$ 404.969 Withholding certification or payments.

After a determination or decision, as described in § 404.968, has been made, the Administration may withhold certification to the Managing Trustee, or, if certification has been made, may notify the Managing Trustee to withhold payments, to the extent and during such time that there is a question as to the validity of such payment or payments to be made pursuant to such determination or decision, by reason of the fact that:

(a) A reconsideration (whether pursuant to a request of the claimant or on the Bureau's own motion), hearing, or review, is being conducted, or a civil action has been filed in a district court of the United States, with respect to such determination or decision; or

(b) An application or request is pending with respect to the payment of benefits or a lump sum to another person and such application or request is inconsistent, in whole or in part, with the payment or payments under such determination or decision; Provided, however, That certification or payment shall not be withheld under the above circumstances unless èvidence is submitted in connection with a request or application described in paragraphs (a) and (b) of this section, which is sufficient to raise. a reasonable question as to the validity of the payment or payments under the determination or decision. The Administration shall, however, certify for payment, as provided in \$404.968, any amount of the payment or payments which is not in question. The acceptance of any payment or payments by a person entitled thereto shall be without prejudice to his rights to reconsideration, hearing, or review, as to any additional payment or payments he may

#### § 404.970 . Transfer or assignment.

The Administration shall not certify, as provided in § 404.968, any amount for payment to an assignee or transferee of the person entitled to such payment under the act, nor shall the Administration certify such amount for payment to any person claiming such payment by virtue of an execution, levy, attachment, garnishment, or other legal process or by virtue of any bankruptcy or insolvency proceeding against or affecting the person entitled to the payment under the act.

#### § 404.971 Representation of parties.

Appointment of representatives. A party to an initial determination, reconsideration, hearing, or review, as provided in §§ 404.905 to 404.963, inclusive, may appoint as his representative in any such proceeding only an individual who is qualified under § 404 972 to act as a representative. Except where the representative appointed is an attorney, such party must give written notice of the appointment of a representative, signed by the party appointing the representative, and accepted by the representative appointed. The notice of appointment shall be filed at an office of the Bureau, with a hearing examiner, or with the Appeals Council. Where the representative appointed is an attorney, in the absence of information to the contrary his representation that he has such authority shall be accepted as evidence of the attorney's authority to represent

# § 404.972 Qualifications of representatives.

Any individual may be appointed to act as a representative in accordance with § 404.971, unless he is disbarred or suspended from acting as a representative in proceedings before the Social Security Administration or unless otherwise prohibited by law.

#### § 404.973 Authority of representatives.

A representative, appointed and qualified as provided in §§ 404.971 and 404.972, may make or give, on behalf of the party he represents, any request or notice relative to any proceeding before the Social Security Administration under title II of the act, including reconsideration, hearing and review, except that such representative may not execute an application for benefits, or the establishment of a period of disability, or a lump sum unless he is a person designated in § 404.603 as authorized to execute an application for benefits, or the establishment of a period of disability, or a lump sum. A representative shall be entitled to present evidence and allegations as to facts and law in any proceeding affecting the party he represents and to obtain information with respect to the claim of such party to the same extent as such party. Notice to any party of any administrative action, determination, or decision, or request to any party for the production of evidence, may be sent to the representative of such party, and such notice or request shall have the same force and effect as if it had been sent to the party represented.

# § 404.974 Proceedings before a State or Federal court.

Any service rendered by any representative in connection with any proceeding before any State or Federal court shall not be considered services in any proceeding before the Social Security Administration for purposes of §§ 404.973, 404.976 and 404.977.

#### § 404.975 Fees for services.

Fees for the services of a representative, appointed and qualified in accordance with \$\$ 404.971 and 404.972 may be charged to, and received from, the party represented only as provided in \$\$ 404.976 and 404.977. No fees for services in any proceeding under title II of the act shall be charged by or paid to any person except a representative duly appointed and qualified in accordance with \$\$ 404.971 and 404.972.

#### § 404.976 Attorneys.

An attorney who is admitted to practice before a court of a State, Territory, District, or insular possession, or before the Supreme Court of the United States or an inferior Federal court, and who is not otherwise prohibited by law from charging or receiving such a fee, may upon petition therefor and good cause shown charge and receive such fee for services rendered in any proceeding under title II of the act before the Bureau of Old-Age and Survivors Insurance, or a hearing examiner, or the Appeals Council (see § 404.977a), as may be approved by such Bureau, hearing examiner, or Appeals Council, respectively: Provided, That no such approval shall be required for charging or receiving a fee for such services in a total amount not greater than the following: Representation before the Bureau only, \$20; representation before a hearing examiner and/or the Appeals Council only, \$30: representation before the Bureau and a hearing examiner and/or the Appeals Council, \$50. This limitation shall be applicable whether the fee is paid by a party to the proceeding or by someone

# § 404.977 Individuals other than attorneys.

No individual other than an attorney, as provided in § 404.976, may charge or receive a fee for services rendered in any proceeding under title II of the act before the Bureau, or a hearing examiner, or the Appeals Council (see § 404.977a), unless he is authorized to do so by the Bureau, a hearing examiner, or the Appeals Council, as stated in this section. An individual other than an attorney who desires authorization to charge or receive a fee for such services shall file a written petition therefor and make a showing that he is not otherwise prohibited from charging or receiving a fee, that he has special qualifications which enabled him to render valuable services to a party in a proceeding before the Social Security Administration, and that he has actually rendered such services to the party he represents. Upon the filing of such petition and a showing that he has rendered such services, the amount

of the fee he may charge or receive, if any, shall be determined by the Bureau, a hearing examiner, or the Appeals Council, and no fees shall be charged or received which is in excess thereof.

# § 404.977a Services rendered in a title II proceeding.

Services rendered in a proceeding under title II of the act consist of services rendered in connection with any claim before the Secretary of Health, Education, and Welfare under such title, including any services in connection with any asserted right calling for an initial or reconsidered determination by the Bureau, a decision by a hearing examiner or a decision or order by the Appeals Council. This includes, but is not limited to, services in connection with an application for benefits or a lump sum. the establishment or continuance of a period of disability; a request for a modification of the amount of benefits or lump sum, or the reinstatement of benefits; proof of support from an insured individual by a husband, widower, parent or former wife divorced; and a request for the revision of an earnings

# § 404.978 Rules governing the representation and advising of claimants and parties.

No attorney or other person shall:

(a) With intent to defraud in any manner, willfully and knowingly deceive, mislead or threaten by word, circular, letter, or advertisement, either oral or written, any claimant or prospective claimant or beneficiary with respect to benefits, lump sums, periods of disability, establishment or maintenance of earnings records or any other initial or continued right under the act; or

(b) Knowingly charge or collect, or make any agreement to charge or collect, directly or indirectly, any fee in connection with any claim except under the circumstances and within the limitations as to amount prescribed in §§ 404.975 to 404.977, inclusive; or

(c) Knowingly make or participate in the making or presentation of any false statement, representation, or claim as to the amount of wages or self-employment income earned by, or derived by, or paid to, an individual, or the period of such earnings, or the time of payment, or as to any material fact affecting the right of any person to benefits or a lump sum, or the amount of either, or to a period of disability; or

(d) Divulge, except as may be authorized by regulations now or hereafter prescribed by the Secretary, any information furnished or disclosed to him by the Social Security Administration relating to the claim or prospective claim of another person.

# § 404.979 Proceedings for suspension or disbarment.

Whenever the Secretary has knowledge or information that an attorney or other individual has violated any of the provisions of § 404.978, a written statement of the Secretary's charges shall be mailed to such attorney or other individual at his last known address, together

with a notice to file an answer, within 30 days from the date of mailing, as to why such attorney or other individual should not be prohibited thereafter from acting as a representative and from charging and receiving fees for services, as provided in §§ 404.973 to 404.977, inclusive. The Secretary may, for good cause shown, extend the time within which the answer may be filed. If an answer is made, it must be in writing under oath and filed within the 30-day period or such extended time as the Secretary may allow.

# § 404.980 Time and place of hearing on charges.

At the expiration of the time within which an answer may be filed, a time and place shall be fixed for a hearing with respect to such charges, and notice thereof shall be mailed, not less than 15 days prior to the time fixed for the hearing, to the attorney or other individual at his last known address.

# § 404.981 Conduct of hearing and determination of charges.

The hearing shall be held before the Secretary or his authorized representative. Witnesses shall be sworn and evidence recorded. If the attorney or other individual has filed an answer, as provided in § 404.979, he may present evidence in support of his statements or allegations in such answer. If he has filed no answer, he shall have no right to present evidence, but he may appear at the hearing for the purpose of presenting to the Secretary or his authorized representative his contentions with regard to the sufficiency of the evidence or validity of the proceedings on which his disbarment or suspension, if it occurred, would be predicated. On the basis of the evidence adduced at the hearing, the Secretary or his authorized representative shall determine whether the charges have been sustained. If he determines that they have been sustained, such attorney or other individual shall not be qualified to act thereafter as a representative and to charge or receive any fee for services, as provided in §§ 404.973 to 404.977, inclusive. However, such disqualification to act as a representative and to charge and receive fees in accordance with §§ 404.973-404.977 may be limited to a specified period of time. Such determination shall be made in writing and a copy shall be mailed to the attorney or other individual affected.

3. Effective date. The provisions of the foregoing amendments, insofar as they permit an attorney-at-law to charge and receive a fee in excess of \$10 without prior approval, and exempt such attorney from having to submit written notice of his appointment as a representative, shall become effective 60 days after the date of publication in the Federal Register; in all other respects, the foregoing amendments shall become effective upon such date of publication.

(Sec. 205(a), 53 Stat. 1368, as amended; section 1102, 49 Stat. 647, as amended; 42 U.S.C. 405(a), 1302; sec. 5 of Reorg. Plan No. 1 of 1953, 67 Stat, 18. Applies secs. 205(a), (b), (c), (g), 206 and 221(d), 53 Stat. 1368, as

amended, 53 Stat. 1372, 68 Stat. 1082; 42 U.S.C. 405(a). (b). (c). (g). 406 and 421(d))

[SEAL] W. L. MITCHELL, Commissioner of Social Security.

Approved: February 19, 1960.

BERTHA ADKINS, Acting Secretary of Health, Education and Welfare.

[F.R. Doc. 60-1729; Filed, Feb. 25, 1960; 8:47 a.m.]

[Regs. No. 4, further amended]

# PART 404—FEDERAL OLD-AGE AND SURVIVORS INSURANCE (1950——)

# State and Local Coverage; Adjustment and Correction of State Reporting Errors

Regulations No. 4, as amended (20 CFR 404.1 et seq.), are further amended as follows:

1. Section 404.1255(a) is amended to read as follows:

§ 404.1255 Place and time for filing contribution returns and wage reports.

(a) In general. Each wage report on Form OAR-S3, together with a recapitulation report (Form OAR-S2) shall be filed with the Department of Health, Education, and Welfare, Social Security Administration, Baltimore 35, Maryland. Contribution returns shall be filed in the manner prescribed in § 404.1250(a) (3), together with the contribution payment. with the Federal Reserve Bank, or branch thereof, serving the district in which the State is located. Such returns shall be filed with respect to contributions for any wage payment or any supplemental wage payment reported on Form OAR-S3. Such returns shall also be filed if contributions are payable with respect to any adjustment of wages reported on Form OAR-S4, Form OAR-S19 or Form OAR-S30. Except as provided in the next sentence and paragraph (b) of this section, the contribution return and wage report for any calendar quarter any part of which is in the first 12-month period following the date of acceptance of an agreement by the Secretary (but not including the date of acceptance of any modification thereof) shall be filed on or before the last day of the second month following the calendar quarter for which it is made; the contribution return and wage report for any subsequent calendar quarter shall be filed on or before the fifteenth day of the second month following the calendar quarter for which it is made. Except as provided in paragraph (b) of this section, contribution returns and wage reports filed by or on behalf of an instrumentality of two or more States for any calendar quarter no part of which is in the first 12-month period following the date of acceptance of an agreement (but not including the date of acceptance of any modification thereof) shall be filed on or before the last day of the first month following the calendar quarter for which it is made: Provided, however, That the Secretary, for good cause shown, may, upon application by a State, allow such further time as he may deem proper for the filing of contribution returns and wage reports for the periods for which they are made. The official responsible for preparing wage reports on Form OAR-S3 for the State and the official responsible for preparing wage reports, on Form OAR-S3 for each political subdivision (or, if the State or political subdivision shall designate its coverage groups or payroll units, the wage reports on Form OAR-S3 for such coverage groups or payroll units) shall file the Form OAR-S3 with the State agency on or before the last day of the first month following the calendar quarter for which it is made. If wage reports on Form OAR-S3 for the State or for all the political subdivisions included in the agreement have not been received by the State in time to permit the State to file a completed consolidated wage report and the completed contribution return on or before the due date, the State shall indicate on the recapitulation report (Form OAR-S2) each political subdivision, coverage group or payroll unit with respect to which no report on Form OAR-S3 has been received for the calendar quarter for which the consolidated report is being submitted. The State, promptly upon receipt of the wage report for the delinquent political subdivision, shall file such report, with the Department of Health. Education, and Welfare and shall file with the Federal Reserve Bank, or branch thereof, a contribution return with respect to wages reported in such report and shall pay the contributions thereon plus interest. If the last day for filing any contribution return or wage report falls on Sunday or a legal holiday, the return or wage report may be filed on the next following business day. If placed in the mails, the contribution return or wage report shall be posted in ample time to reach the Federal Reserve Bank, or branch thereof, or the Department of Health, Education, and Welfare under ordinary handling of the mails on or before the due date. (As to interest assessable for failure to file a contribution return within the prescribed time see § 404.1226.)

#### § 404.1261 [Amendment]

2a. Section 404.1261(a)(2) is amended to read as follows:

- (2) If an underpayment of contributions is due to an underreporting of or a failure to report one or more employees on Form OAR-S3:
- (i) Where the underreporting or failure to report has been ascertained by the State, the State may cause an adjustment by filing a Form OAR—S4 within 30 days after ascertainment of the error by the State together with a copy of the Form OAR—S1 prepared in accordance with the instructions contained therein:
- (ii) Where the underreporting or failure to report has been ascertained by the Social Security Administration, a notification of underpayment on Form OAR-S9 (Audit Statement) and Form OAR-S30 (Federal Determination of Error in State's Wage Reports) shall be forwarded to the State, and the State

may cause an adjustment of the underpayment by returning to the Social Security Administration, within 30 days from the date of the notification, a copy of the Form OAR—S9 together with Form OAR—S30 and a copy of the Form OAR— S1 prepared in accordance with the instructions contained therein.

The Form OAR-S4 shall show the amount of wages, if any, erroneously reported for the calendar quarter and the correct amount of wages that should have been reported and the identification number of the State or the political subdivision for each employee who was omitted or erroneously reported. The filing of the Form OAF-S4 or the copy of the Form OAR-S30 to correct an underreporting of or a failure to report one or more employees' wages shall not constitute an adjustment under this section unless the wages were erroneously omitted from or erroneously reported on the Form OAR-S3.

b. Section 404.1261(b) is amended to read as follows:

(b) Payment. The amount of each underpayment adjusted in accordance with this section shall be paid to the Federal Reserve Bank, or branch thereof. serving the district in which the State is located, without interest, at the time of reporting the adjustment. If an adjustment is reported on Form OAR-S1. pursuant to subparagraph (1) of paragraph (a) of this section or on Form OAR-S4, pursuant to subparagraph (2) of paragraph (a) of this section but the amount thereof is not paid when due. interest thereafter accrues. (For interest accruing on amounts so reported, see § 404.1225.)

(Sec. 205(a), 53 Stat. 1368 as amended, sec. 1102, 49 Stat. 647 as amended; 42 U.S.C. 405(a), 1302; sec. 5 of Reorg. Plan No. 1 of 1953, 67 Stat. 18. Interprets and applies sec. 218 (e), (h), and (i), 64 Stat. 514, 42 U.S.C. 418 (e), (h), and (l))

[SEAL] W. L. MITCHELL,

Commissioner of Social Security.

Approved: February 19, 1960.

BERTHA ADKINS, Acting Secretary of Health, Education, and Welfare.

[F.R. Doc. 60-1728; Filed, Feb. 25, 1960; 8:47 a.m.]

# Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B-FOOD AND FOOD PRODUCTS

PART 15—CEREAL FLOURS AND RE-LATED PRODUCTS; DEFINITIONS AND STANDARDS OF IDENTITY

Subpart C—Rice and Related Products

ENRICHED RICE; AMENDMENT OF IDENTITY STANDARD

In the matter of amending the definition and standard of identity for enriched rice:

A notice of proposed rule making was published in the FEDERAL REGISTER of September 22, 1959 (24 F.R. 7620), setting forth the proposal of Uncle Ben's. Inc., 2001 Nance Street, Houston, Texas, to amend the standard of identity for enriched rice. The notice invited all interested persons to submit views and comments on the proposal.

Upon consideration of all views and comments submitted and other relevant information, it is concluded that it will promote honesty and fair dealing in the interest of consumers to amend the definition and standard of identity for enriched rice as hereinafter set forth. Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F.R. 1045... 23 F.R. 9500): It is ordered, That the definition and standard of identity for enriched rice (21 CFR, 1958 Supp., 15.525) be amended as follows:

- 1. The section headnote is changed to read:
- §-15.525 Enriched rice; identity; label statement of optional ingredients.
- 2. Paragraph (a) is amended by adding thereto a new subparagraph (4), reading as follows:
- (4) In the case of enriched parboiled rice, butylated hydroxytoluene may be added as an optional ingredient in an amount not to exceed 0.0033 percent by weight of the finished food.
- 3. Section 15.525 is amended by adding a new paragraph (f), reading as follows:
- (f) When the optional ingredient specified in paragraph (a) (4) of this section is added, the statement "Buty-lated hydroxytoluene added as a preservative" shall be placed on the label prominently and with such conspicuousness (as compared with other words, statements, designs, or devices in the label) as to render it likely to be read and understood by the ordinary individual under customary conditions of pur-

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL. REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, shall specify with particularity the provisions of the order deemed objectionable and the grounds for the objections, and shall request a public hearing. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of objections thereto.

Notice of the filing of objections, or the terial from canning and from partial exlack thereof, will be announced by publication in the Federal Register.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interpret or apply sec. 401, 52 Stat. 1046, as amended; 21 U.S.C. 341)

Dated: February 18, 1960.

[SEAL] GEO. P. LARRICK. Commissioner of Food and Drugs.

[F.R. Doc. 60-1753; Filed, Feb. 25, 1960; 8:51 a.m.]

#### PART 53—TOMATO PRODUCTS; DEF-INITIONS AND STANDARDS OF IDENTITY; QUALITY; AND FILL OF CONTAINER

#### Tomato Puree; Amendment of Standard of Identity

In the matter of amending the definition and standard of identity for tomato puree:

A notice was published in the FEDERAL REGISTER of September 2, 1959 (24 F.R. 7110), setting forth the proposal of H. J. Heinz Company, Pittsburgh, Pennsylvania; Schuckl and Company, Sunnyvale, California; Tri-Valley Packing Association, San Francisco, California; and Thornton Canning Company, Lodi, California, to amend the definition and standard of identity for tomato puree. The notice invited all interested persons to submit views and comments on the proposal.

Upon consideration of all views and comments submitted and other relevant information, it is concluded that to promote honesty and fair dealing in the interest of consumers the definition and standard of identity for tomato puree (21 CFR 53.20) should be amended as hereinafter set forth. Therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F.R. 1045, 23 F.R. 9500): It is ordered, That § 53.20(b) be amended to read as follows:

### § 53.20 Tomato puree, tomato pulp; identity; label statement of optional ingredients.

(b) (1) When the optional ingredient specified in paragraph (a) (2) of this section is present, in whole or in part, the label shall bear the statement "Made from residual tomato material from canning" or "Made in part from residual tomato material from canning," as the case may be. When the optional ingredient specified in paragraph (a) (3) of this section is present, in whole or in part, the label shall bear the statement "Made from residual tomato material from partial extraction of juice" or "Made in part from residual tomato material from partial extraction of juice," as the case may be. If both such ingredients are present, such statements may be combined in the statement "Made from residual tomato material from canning and from partial extraction of juice" or "Made in part from residual tomato matraction of juice," as the case may be.

(2) The name specified for the food covered by this section is "Tomato puree" or alternately "Tomato pulp." However, if the only optional tomato ingredient used is the ingredient specified in paragraph (a) (1) of this section and the food contains not less than 21 percent of saltfree tomato solids, the name "Concentrated tomato juice" may be used in lieu of the name "Tomato puree" or "Tomato pulp."

(3) Wherever the name "tomato puree" or "tomato pulp" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement or statements specified in this section, showing the optional ingredients present, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, shall specify with particularity the provisions of the order deemed objectionable, the grounds for the objections, and shall request a public hearing. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall become effective 60 days from the date of its publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of objections thereto. Notice of the filing of objections, or lack thereof, will be announced by publication in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interpret or apply sec. 401, 52 Stat. 1046, as amended; 21 U.S.C. 341)

Dated: February 19, 1960.

GEO. P. LARRICK. [SEAL] Commissioner of Food and Drugs.

[F.R. Doc. 60-1754; Filed, Feb. 25, 1960; 8:51 a.m.]

#### SUBCHAPTER C-DRUGS . .

141b—STREPTOMYCIN (OR **DIHYDROSTREPTOMYCIN)** AND STREPTOMYCIN- (OR DIHYDRO-STREPTOMYCIN-) **CONTAINING** DRUGS; TESTS AND METHODS OF ASSAY

PART 146b - CERTIFICATION OF STREPTOMYĆIN (OR DIHYDRO-STREPTOMYCIN) AND STREPTO-MYCIN- (OR DIHYDROSTREPTO-**MYCIN-) CONTAINING DRUGS** 

Streptomycin-(or Dihydrostreptomycin-) Neomycin for Inhalation Therapy Veterinary

Under the authority vested in the Secretary of Health, Education, and Wel-

fare by the Federal Food, Drug, and which the latest assays of the streptomy-Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F.R. 1045, 23 F.R. 9500), the regulations for tests and methods of assay and certification of streptomycin and dihydrostrepto-mycin drugs (21 CFR Parts 141b, 146b) are amended as indicated below:

- 1. Part 141b is amended by adding the following new section:
- § 141b.137 Streptomycin-neomycin for inhalation therapy veterinary; di-hydrostreptomycin-neomycin for inhalation therapy veterinary.
- (a) Potency—(1) Streptomycin content. Proceed as directed in § 141b.101, except paragraph (i) of that section. Its content of streptomycin is satisfactory if it contains not less than 85 percent of the number of milligrams that it is represented to contain.
- (2) Dihydrostreptomycin content, Proceed as directed in subparagraph (1) of this paragraph, using the dihydrostreptomycin working standard as the standard of comparison. Its content of dihydrostreptomycin is satisfactory if it contains not less than 85 percent of the number of milligrams that it is represented to contain.
- (3) Neomycin content. Proceed as directed in § 141b.131(a)(3) or § 141c.242 (a) (2) of this chapter. Its content of neomycin is satisfactory if it contains not less than 85 percent of the number of milligrams that it is represented to contain.
- (b) Moisture. Proceed as directed in § 141a.8(b) of this chapter.
- 2. Part 146b is amended by adding the following new section:
- § 146b.132 Streptomycin-neomycin for inhalation therapy veterinary; dihydrostreptomycin-neomycin for inhalation therapy veterinary.
- (a) Identity; packaging; labeling. Streptomycin-neomycin for inhalation therapy veterinary and dihydrostreptomycin-neomycin for inhalation therapy veterinary conform to all requirements and are subject to all procedures prescribed by § 146b.112 (a), (b), and (c), except that:
- (1) For each 5 grams of streptomycin or dihydrostreptomycin, it contains 1 gram of neomycin. The neomycin used conforms to the standards prescribed therefor by § 146e.410(a) of this chapter.
- (2) In addition to the labeling prescribed by § 146b.112(c), each package shall bear on its label and labeling the number of grams of neomycin in each immediate container and the statements "For veterinary use only" and "Caution: Do not use on laying hens." The expiration date of the drug shall be 18 months.
- (b) Request for certification; samples. (1) In addition to complying with the requirements of § 146.2 of this chapter. a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless they were previously submitted) the dates on

cin or dihydrostreptomycin and neomycin used in making the batch were completed, the number of grams of streptomycin or dihydrostreptomycin and the number of grams of neomycin in the batch, the quantity of each other ingredient used in making the batch, the date on which the latest assay of the drug comprising such batch was completed, and a statement that each ingredient used in making the batch conforms to the requirements prescribed therefor, if any, by this section.

(2) Except as otherwise provided in subparagraph (4) of this paragraph, such person shall submit in connection with his request results of tests and assays listed after each of the following, made by him on an accurately repre-

sentative sample of:
(i) The batch: The number of grams of streptomycin or dihydrostreptomycin and the number of grams of neomycin per container, and moisture content.

(ii) The streptomycin or dihydrostreptomycin used in making the batch: Potency, toxicity, pH, streptomycin content if it is dihydrostreptomycin, and crystallinity if it is crystalline dihydrostreptomycin.

(iii) The neomycin used in making the batch: Potency, toxicity, moisture,

and pH.

(3) Except as otherwise provided by subparagraph (4) of this paragraph, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(i) The batch: One immediate container for each 5,000 immediate containers in the batch: but in no case less than five immediate containers, collected by taking single immediate containers throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(ii) The streptomycin or dihydrostreptomycin used in making the batch: Five packages containing equal portions of not less than 0.5 gram each, packaged in accordance with the requirements of § 146b.101(b).

(iii) The neomycin used in making the batch: Five packages containing approximately equal portions of not less than 0.5 gram each.

(iv) In case of an initial request for certification, each other ingredient used in making the batch: One package of each containing approximately 5 grams.

- (4) The results referred to in subparagraph (2) (ii) and (iii) of this paragraph and the samples referred to in subparagraph (3) (ii) and (iii) of this paragraph are not required if such results or samples have been previously submitted.
- (c) Fees. The fees for the services rendered with respect to each batch under the regulations in this part shall be:
- (1) \$4.00 for each immediate container submitted in accordance with paragraph (b) (3) (ii), (iii), and (iv) of this section: \$5.00 for each immediate container submitted in accordance with paragraph (b) (3) (i) of this section.

(2) If the Commissioner considers that investigations other than examination of such packages are necessary to determine whether or not such batch complies with the requirements of § 146.3 of this chapter for the issuance of a certificate, the cost of such investigations.

The fees prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fees are covered by an advance deposit maintained in accordance with § 146.8(d) of this chapter.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for tests and methods of assay and certification of the antibiotic drugs covered by this order.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: February 19, 1960.

[SEAL] GEO. P. LARRICK, Commissioner of Food and Drugs.

[F.R. Doc. 60-1755; Filed, Feb. 25, 1960; 8:51 a.m.]

# Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER G-TRIBAL GOVERNMENT

PART 71-RECOGNITION OF ATTORNEYS AND AGENTS TO REP-RESENT CLAIMANTS

#### PART 72—ATTORNEY CONTRACTS WITH INDIAN TRIBES

#### Miscellaneous Amendments

Sections 71.1, 72.1, 72.3, 72.4, 72.9, 72.16, 72.17, 72.18 and 72.25 of 25 CFR are amended and § 72.6a of 25 CFR is revoked as set forth below. These amendments and the revocation are necessary to conform the affected regulations with the transfer of authority from the Commissioner of Indian Affairs to the Solicitor of the Department of the Interior to approve attorney contracts with Indian tribes and directly related tribal contracts with technical specialists, and to determine fees and expenses under such contracts pursuant to 25 U.S.C. 81, 82, 83, 84 and 476. Since the amendments and revocation are made because of a transfer of functions within the Department, notice and public procedure thereon have been deemed unnecessary. The amendments and revocation shall become effective January 15, 1960.

1. Section 71.1 is amended to substitute the "Solicitor of the Department of Indian Affairs" and to read as follows:

#### § 71.1 Employment of attorneys.

(a) Indian tribes organized pursuant to the Reorganization Act of June 18, 1934, as amended (48 Stat. 984; 25 U.S.C. 461-479), may employ legal counsel. The choice of counsel and the fixing of fees are subject under 25 U.S.C. 476 to the approval of the solicitor of the Department of the Interior as the authorized representative of the Secretary of the Interior.

(b) Attorneys may be employed by Indian tribes not organized under the act of June 18, 1934, under contracts subject to approval under 25 U.S.C. 81 and Reorganization Plan No. 3 of 1950, 5 U.S.C. 481 note, by the Solicitor as the authorized representative of the Secretary of the Interior. Practice of such attorneys before the Bureau of Indian Affairs and the Department is subject to the requirements of 43 CFR 1.1-1.7. The Solicitor has been authorized to redelegate his approval authority with respect to both 25 U.S.C. 81 and 476.

2. Section 72.1 is amended to substitute the "Solicitor of the Department of the Interior" for the "Commissioner of Indian Affairs" and to read as follows:

#### § 72.1 Contracts with organized tribes.

(a) Negotiation and execution of tribal attorney contracts with Indian tribes organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461-479), shall be in accordance with the provisions of the approved constitution or charter of the respective tribes.

(b) The Solicitor of the Department of the Interior, or such other official of his office as he may authorize, has been authorized by the Secretary of the Interior to approve pursuant to 25 U.S.C. 476 the selection of counsel and the amount of fees and expenses to be paid under any

such contract.

3. Section 72.3 is amended to provide that tentative forms of tribal attorney contracts may be obtained by organized Indian tribes from the Solicitor and to read as follows:

#### § 72.3 Tentative form of contract.

A tribal council or representative body having authority to employ legal counsel in behalf of an organized tribe, may if it desires, obtain a tentative form of contract by written request directed through the Commissioner of Indian Affairs to the Solicitor. Requests for forms should include a statement of the scope of the intended employment; that is,

the Interior" for the "Commissioner of whether an attorney is desired for investigation and prosecution of tribal claims against the United States, or as general legal counsel in connection with the ordinary business of the tribe, or specific problems on which legal advice is desired, or specific matters requiring representation in court or before committees of Congress and the departments of the Government. The period for which an attorney is desired should be stated.

> 4. Section 72.4 is amended to provide for the transmittal of contracts to the Solicitor for approval action and to read as follows:

#### § 72.4 Report of superintendent.

Contracts executed by organized tribes should be transmitted to the Solicitor by the superintendent through the Area Director and Commissioner of Indian Affairs, with a report based upon references and independent inquiry concerning the qualifications of the attorney, and his ability to perform the services required by the contract. The recommendations of the superintendent, Area Director and Commissioner are to accompany the contract and report.

#### § 72.6a [Revocation]

5. Section 72.6a, providing for an appeal from the Commissioner of Indian Affairs to the Secretary of the Interior, is revoked in its entirety since the Solicitor will take final Departmental action on the approval of tribal attorney contracts and the determination of fees and expenses thereunder.

6. Section 72.9 is amended to provide for the transmittal of notes of council proceedings to the Solicitor and to read

as follows:

#### § 72.9 Record of council proceedings.

Stenographic notes should be made of the proceedings of the council, transcribed, certified to by the superintendent as correct, and a copy thereof should be sent with the contract to the Solicitor through the Area Director and the Commissioner of Indian Affairs.

7. Section 72.16 is amended to provide for notice from the tribe to the Solicitor and to read as follows:

#### § 72.16 Notice from the tribe.

Notice of intention to negotiate with attorneys should be sent to the superintendent by the proper tribal officers, accompanied by a full statement concerning the need for retaining counsel, showing in detail the purposes for which an attorney is needed, the scope of his intended employment, and a reference

to the tribal funds, if any, which the tribe believes should be made available for payment of counsel fees and expenses. The notice and statement should be transmitted to the Solicitor by the superintendent through the Area Director and the Commissioner of Indian Affairs with reports and recommendations from the superintendent, Area Director and Commissioner.

8. Section 72.17 is amended to provide for notice from attorneys to the Solicitor and to read as follows:

#### § 72.17 Notice from attorneys.

Attorneys desiring to execute contracts with Indian tribes shall be required, in advance of all negotiations, to give written notice directed through the Commissioner of Indian Affairs to the Solicitor.

9. Section 72.18 is amended to provide that tentative forms of tribal attorney contracts may be obtained by unorganized Indian tribes from the Solicitor and to read as follows:

#### § 72.18 Tentative form of contract.

A tentative form of contract may be obtained by written request directed through the Commissioner of Indian Affairs to the Solicitor. When the attorney or tribe proposing to execute a contract desires to make substantial changes in the tentative form, the proposed changes should be submitted through the Commissioner to the Solicitor for approval as to form prior to execution of a contract.

10. Section 72.25 is amended to reflect the termination of the authority of Commissioner of Indian Affairs to approve tribal attorney contracts and to read as follows:

#### § 72.25 Invalid contracts.

The following is especially pointed out. 25 U.S.C. 81 provides further that all contracts made in violation of that section shall be null and void. Under 25 U.S.C. 84 and Reorganization plan No. 3 of 1950, 5 U.S.C. 481 note, no assignment of any such contract shall be valid without the consent of the Secretary of the Interior or his authorized representative. 25 U.S.C. 85 declares that no contract with any individual Indian relating to tribal property shall have any validity unless the consent of the United States has previously been given thereto.

> FRED A. SEATON. Secretary of the Interior.

FEBRUARY 19, 1960.

JF.R. Doc. 60-1720; Filed, Feb. 25, 1960; 8:45 a.m.]

# Proposed Rule Making

# DEPARTMENT OF HEALTH, EDU-CATION, AND WELFARE

Food and Drug Administration
[ 21 CFR Part 121 ]
FOOD ADDITIVES

#### Notice of Filing of Petition

In re: Notice of filing of petition for issuance of a regulation to permit the use of propylene glycol ether of methylcellulose N.F. in salad dressing, french dressing, and nonstandardized foods:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), the following notice is issued:

A petition has been filed by The Dow Chemical Company, Midland, Michigan, proposing the issuance of a regulation to permit the use of the propylene glycol ether of methylcellulose N.F. in salad-dressing, french dressing, and nonstandardized foods as an emulsifier, thickener, stabilizer, protective colloid, suspending agent, or film former.

Dated: February 19, 1960.

[SEAL] GEO. P. LARRICK,

Commissioner of Food and Drugs.

[F.R. Doc. 60-1750; Filed, Feb. 25, 1960; 8:50 a.m.]

# [ 21 CFR Part 121 ] FOOD ADDITIVES

#### Notice of Filing of Petition

In re: Notice of filing of petition for issuance of regulation providing for the use of nitrocellulose-coated, heat-sealing cellophane films in food packaging.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b) (5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), the following notice is issued:

A petition has been filed by E. I. du Pont de Nemours and Company, Inc., Wilmington 98, Delaware, proposing the issuance of a regulation to provide for the use in food packaging of nitrocellulose-coated, heat-sealing cellophane films containing the following food additives at not more than the indicated concentrations:

· 1	ercent
Dibutyl phthalate	. 2.17
Dicyclohexyl phthalate	. 2.17
Maleic acid	0.40
Polymers of pimaric and abietic acids	
and/or rosin constituents	0.64
Pentaerythritol tetrastearate	0.09

Dated: February 19, 1960.

[SEAL] GEO. P. LARRICK, Commissioner of Food and Drugs.

[F.R. Doc. 60-1751; Filed, Feb. 25, 1960; 8:50 a.m.]

# [21 CFR Part 121] FOOD ADDITIVES

#### Notice of Filing of Petition

In re: Notice of filing of petition for issuance of a regulation for 66 nylon resin and 610 nylon resin in milk-processing equipment:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b) (5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), the following notice is issued:

A petition has been filed by E. I. du Pont de Nemours and Company, Inc., Wilmington 98, Delaware, proposing the issuance of a regulation to provide for the use of 66 nylon and 610 nylon resins in milk-processing equipment.

Dated: February 19, 1960.

[SEAL] GEO. P. LARRICK, Commissioner of Food and Drugs.

[F.R. Doc. 60-1752; Filed, Feb. 25, 1960; 8:51 a.m.]

# FEDERAL AVIATION AGENCY

[ 14 CFR Parts 501, 502, 503, 504, 505 ]

[Reg. Docket No. 284]

# REGISTRATION, RECORDATION, AND ENCUMBRANCES

#### Notice of Proposed Rule Making

Pursuant to the authority delegated to me by the Administrator (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to revise Parts 501, 502, 503, 504 and 505 of the Regulations of the Administrator to reflect the enactment of the Federal Aviation Act of 1958 and the establishment of the Federal Aviation Agency, to make editorial changes and to make minor clarifications and changes in the registration, certification and recordation requirements. The substantive changes to be made are as follows:

1. Section 501.4(3) (i) will require that aircraft not previously registered will be assigned a registration number from the nearest Federal Aviation Inspector in the field which number shall not exceed five symbols including only one letter,

2. Section 501.4(3) (ii) provides that in the event a desired number is not available from the Federal Aviation Inspector in the field the application will be made to the Aircraft and Airman Records Branch, Oklahoma City, Oklahoma. A fee of \$10.00 is payable for a special number. Numbers consisting of 1 to 3 digits and 1 or 2 digits followed by a letter are reserved for Government aircraft, and on aircraft which will not accommodate a larger number.

3. Sections 501.9 and £02.3(a) will require that certificates of registration of aircraft and Dealers Aircraft Registration Certificates must be displayed rather than merely carried in the aircraft.

4. Section 502.4(c) (2) concerning the registration of aircraft previously registered in foreign countries, will provide that, before a United States registration number will be assigned to the aircraft, the Aircraft and Airman Records Branch of FAA must receive notification from the foreign government that the foreign registry has been cancelled.

5. Section 503.3(a) (3), relating to the eligibility of conveyances for recordation, will provide that if neither the original document nor an executed duplicate is available, a certified true copy of a con-

veyance may be recorded.

6. The definition of "conveyance" in §§ 503.2, 504.2, and 505.2 will no longer include judicial decrees.

7. A new provision, § 503.3(c), will be added to permit the notation of salvage claims and claims for extraordinary expenses indispensable for the preservation of the aircraft.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before April 29, 1960, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination by interested persons in the Docket Section when the prescribed time for return of comments has expired. This proposal will not be given further distribution as a draft release.

This revision is proposed under the authority of sections 313(a), 501, 502, 503, and 505 of the Federal Aviation Act of 1958, as amended (72 Stat. 752, 771-774, 49 U.S.C. 1354(a), 1401, 1402, 1403, 1405).

In consideration of the foregoing, it is proposed to revise Parts 501, 502, 503, 504 and 505, so as to read as follows:

# PART 501—REGISTRATION OF AIRCRAFT

566.	
501.1	Basis and purpose.
501.2	Scope.
501.3	Application.
501.4	Issuance of certificate of registration.
501.5	Signatures.
501.6	Effective date.
501.7	Transferability.
501.8	Duration.
501.9	Display.
501.10	Invalidation.
501.11	Surrender.
501.12	Notice of change of ownership, registration, or address.

#### § 501.1 Basis and purpose.

The basis for this part is found in sections 313 and 501 of the Federal Aviation Act of 1958. The purpose of this part is to prescribe the regulations under which persons may register aircraft in accordance with the requirements of section 501 of the Federal Aviation Act of 1958.

#### § 501.2 Scope.

Except as provided in Part 502 of this chapter with respect to Dealers' Aircraft Registration Certificates, the requirements for aircraft certificates of registration shall be as prescribed in this part.

#### § 501.3 Application.

- (a) Form. Application for the registration of an aircraft shall be made upon the Form FAA-500, Part B, furnished by the Administrator of the Federal Aviation Agency. The Form FAA-500 contains three parts: Part A, "Certificate of Registration"; Part B, "Application for Registration"; and Part C, "Bill of Sale." An applicant for a certificate of registration shall submit to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma, the following:
- (1) An original and a duplicate of Part A;
- (2) The original of Part B, signed in ink;
- (3) The original of Part C or another bill of sale or other form of conveyance specified in § 501.4(b) (2), signed in ink and acknowledged;
- (4) A registration fee of \$4.00 in the form of a check or money order made payable to the Federal Aviation Agency.

The name of the purchaser shall be identical on Parts A, B, and C. If a contract of conditional sale is submitted, an additional fee of \$4.00 shall be enclosed to record it. The applicant shall retain the duplicate of Part B in the aircraft as a temporary registration pending receipt of the certificate of registration, Part A of Form FAA-500,

<sup>1</sup> The certificate of registration issued by. the Federal Aviation Agency is issued only to the owner of an aircraft. However, section 501 of the Federal Aviation Act of 1958, states that "registration shall not be evidence of ownership of aircraft in any proceeding in which such ownership by a particular person is, or may be in issue." The Federal Aviation Agency does not issue any certificates of ownership, nor is information with respect to ownership endorsed on certificates of regis-The records of aircraft ownership which are maintained by the Federal Aviation Agency are public records and are open for inspection at the Aircraft and Airman Records Branch, Oklahoma City, Oklahoma. Individuals interested in such information may make a personal search of the records or may avail themselves of the services of an agent or an attorney.

<sup>2</sup> A separate Part C (Bill of Sale) to Form FAA-500 has been provided for use when an additional bill of sale is required to complete the chain of ownership, or the execution of a new bill of sale is required to replace that submitted which did not meet the recording requirements of the Act or the Regulations of the Administrator. This form will also serve the aircraft manufacturers, dealers, distributors, and purchasers, who buy for

immediate resale.

and in the event a later notification from the Federal Aviation Agency authorizes continued operation of the aircraft pending receipt of such certificate of registration, the applicant shall also retain such notification in the aircraft.

# § 501.4 Issuance of certificate of registration.

- (a) New or previously unregistered aircraft—(1) Application. A certificate of registration will be issued by the Administrator of Federal Aviation Agency for aircraft owned by citizens of the United States and not previously registered under the provisions of the Federal Aviation Act of 1958, if the applicant:
- (i) Mails or delivers a duly executed application for registration, accompanied by the \$4.00 registration fee, to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma: and

(ii) Submits with the application proof satisfactory to the Administrator of the Federal Aviation Agency that the applicant is the owner of such aircraft.

(2) Proof of ownership. An aircraft will be registered only in the name of the owner. The applicant for registration of a new or a previously unregistered aircraft shall submit proof of his ownership. Part C of Form FAA-500, or its equivalent, may be used for this purpose. The owner of home-built aircraft or of an aircraft assembled from parts shall submit his affidavit setting forth that the aircraft was built from parts and that the affiant is the owner of all right, title, and interest therein.

(3) Identification. (i) The applicant for registration of an aircraft which has not previously been assigned a registration number shall obtain such a number from the nearest Federal Aviation Agency Inspector in the field. In addition to the prefix "N", an aircraft identification number will not exceed five symbols, which may consist of 1 to 5 digits or 1 to 4 digits followed by a letter.

digits of 1 to 4 digits followed by a letter.

(ii) If the owner of an aircraft desires the assignment of a number not available from the Federal Aviation Agency Inspector, or if the owner desires to change the registration number originally assigned to the aircraft, he shall apply directly to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma, and accompany his request with a check or money order made payable to the Federal Aviation Agency in the amount of \$10.00 for the special number requested. Registration numbers consisting of 1 to 3 digits, and of 1 or 2 digits followed by a

letter are reserved for use on Government owned aircraft, and on aircraft which will not accommodate a larger number. Any application for a 1 to 3 digit number, or a 1 or 2 digit number followed by a letter, must be accompanied by a statement from a Federal Aviation Agency Inspector verifying the fact that the aircraft will not accommodate a number of more than three symbols.

(b) Previously registered aircraft—(1) Application. A certificate of registration will be issued by the Administrator of the Federal Aviation Agency for aircraft previously registered under the provisions of the Federal Aviation Act of 1958, if:

(i) The applicant submits a duly executed application for registration to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City. Oklahoma, accompanied by the registration fee of \$4.00;

(ii) The applicant submits with the application for registration a conveyance which meets the requirements prescribed in Part 503 of this chapter and evidences

the applicant's ownership of the aircraft; and

- (iii) The conveyance submitted with the above application establishes, within the recordation system of the Administrator of Federal Aviation Agency, ownership to the aircraft in the applicant: Provided, That this requirement shall not be applicable to contracts of conditional sale, in which the seller is the legal owner of the aircraft, if the purchaser is granted the right of possession; And provided further, That if for good reason an applicant for registration cannot comply with the provisions of subdivision (ii) of this subparagraph and this subdivision as specified in subparagraph (2) of this paragraph, title evidence satisfactory to the Administrator of the Federal Aviation Agency shall be submitted.4
- (2) Proof of ownership. (i) If the applicant for registration purchases the aircraft from the last registered owner. he shall submit a conveyance executed by such person to him. If the applicant did not purchase the aircraft from the last registered owner, he shall submit documents acceptable to the Administrator showing consecutive transactions from the last registered owner, through all intervening owners, and thence to him. Part C of Form FAA-500 is a bill of sale which may be completed by the seller. Its use is not compulsory and any equivalent bill of sale is acceptable as proof of ownership provided it is acceptable for recording under the requirements outlined in § 503.1 of this chapter.
- (ii) The purchaser of an aircraft under a contract of conditional sale who has possession of the aircraft is considered the owner for the purpose of registration and shall submit the contract of conditional sale as proof of ownership

<sup>&</sup>lt;sup>3</sup> As defined by section 101 (13) of the Federal Aviation Act of 1958, "Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory or possession of the United States, of which the President and Two-Thirds or more of the Board of Directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

Acceptable evidence might consist of an affidavit from the applicant for registration setting forth the circumstances of his inability to obtain the required documents and submitting therewith any available evidence he may have in support of the transaction.

when applying for registration.5 The contract of conditional sale shall meet the applicable requirements of Part 503 of this chapter. Where an equitable interest under a contract of conditional sale has been assigned, the assignee is the owner for the purpose of registration and shall submit the original contract of conditional sale (unless it has already been recorded with the Federal Aviation Agency), and an assignment from the original conditional purchaser to the applicant for registration. This assignment shall meet the applicable requirements of Part 503 of this chapter and there shall also be affixed the signature of the holder (conditional seller or his assignee) of the contract of conditional sale to show assent to the assignment of the equitable interest.

(iii) If an applicant for registration obtained the aircraft through repossession and/or foreclosure proceedings, he shall submit as evidence of his ownership: (a) A certificate of repossession on Form FAA-909 or its equivalent, executed by the person legally entitled to repossess, stating that the aircraft has been repossessed or otherwise seized pursuant to the terms of the financing agreement involved and the pertinent local laws: (b) the original or a certified true copy of the financing agreement under which the aircraft was repossessed, unless such financing agreement has been previously recorded by the Federal Aviation Agency; (c) if the repossession was through foreclosure proceedings, then in addition to the foregoing, a bill of sale which meets the applicable requirements of Part 503 of this chapter, executed by the officer, sheriff, auctioneer, or other person responsible for the conduct of such sale.

(iv) Where the applicant for registration purchased the aircraft at a judicial sale or a sale to satisfy a lien, he shall submit as proof of his ownership a bill of sale from the officer, sheriff, auctioneer, or other person responsible for the conduct of such sale, which document shall state-that the sale was conducted in accordance with the pertinent local laws.

(v) In any case where the title to an aircraft has been in controversy and ownership has been determined by a court, the applicant for registration shall

submit a properly certified order of the court.

(vi) If the applicant for registration is the administrator or executor of the estate of the deceased former owner. he shall submit with the application for registration a certified copy of the letters of administration or letters testamentary appointing the applicant administrator or executor. If the aircraft is sold to another party, the applicant for registration shall submit a bill of sale executed for the estate by the administrator or executor, together with a certified copy of the letters of administration or letters testamentary. When no executor or administrator has been or is to be appointed, the bill of sale shall be executed in the name of the estate of the former owner by the heir at law and shall be accompanied by an affidavit from the signer that no application has been made for the appointment of an executor or administrator, that insofar as the applicant can determine, no such application will be made, and that he is the person entitled to the aircraft under the laws of the state having jurisdiction. or that under such laws he or she has the right to dispose of the aircraft.

(c) Aircraft previously registered in foreign countries—(1) Application. A certificate of registration will be issued by the Administrator of Federal Aviation Agency for aircraft which have been last registered under the laws of a foreign country if the applicant:

(i) Submits a duly executed application for registration and the \$4.00 registration fee to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma; and

(ii) Submits with the application a bill of sale from the foreign seller or other proof satisfactory to the Administrator of the Federal Aviation Agency that the applicant is the owner of the aircraft: and

(iii) Submits evidence satisfactory to the Administrator of the Federal Aviation Agency, (a) if the country of foreign registry has not ratified the Convention on International Recognition of Rights in Aircraft, that the foreign registry has terminated or is invalid, (b) if the country of foreign registry has ratified the Convention, that (1) the foreign registry has terminated or is invalid,6 and that all holders of recorded rights against the aircraft have been satisfied or have consented to the transfer of registry; or (2) that ownership in the country of export has been terminated by a sale in execution carried out in conformity with the provisions of the Convention.

(2) Identification. A United States registration number will be assigned to an aircraft previously registered in a foreign country only upon compliance with requirements of subparagraph (1)

(iii) of this paragraph. After clearance with the Aircraft and Airman Records Branch, the Federal Aviation Agency Inspector at the port of entry of the aircraft into the United States, or the FAA International Field Office may assign a registration number to such an aircraft.

If the purchaser desires the assignment of a number not available from the inspector or field office, he shall apply directly to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma, and shall accompany his request with a check or money order made payable to the Federal Aviation Agency in the amount of \$10.00 for the special number requested.

#### § 501.5 Signatures.

All signatures on applications for registration and on conveyances shall comply with the following, where applicable:

(a) Agent. If an instrument is signed by an agent, the name of the person or firm for whom the agent is signing shall be shown above the signature. The agent shall indicate that he is signing as "agent" or "attorney in fact" and shall submit the signed and acknowledged power of attorney under which he is acting or a certified true copy thereof or other acceptable evidence of his authority.

(b) Corporation. The person signing on behalf of a corporation shall show his corporate title on the instrument. The signature of a person signing for a corporation other than the president, vice president, secretary, d: treasurer, will not be accepted unless there is submitted a certified copy of the authority granted him by the Board of Directors of the corporation to act in that capacity.

(c) Partnership. Where one partner signs for the entire partnership, the person signing shall indicate that he is signing on behalf of the partnership by showing the word "partner" beneath his

signature.

(d) Cotenants. A document executed in connection with aircraft owned by several persons as cotenants or tenants in common shall be signed by each of the individuals who have title to the aircraft under that form of ownership.

under that form of ownership.
(e) Trade name. Documents for aircraft owned by an individual, a partnership, or unincorporated association, doing business under a trade name, may be executed in the trade name and the signer shall show the capacity (owner or partner) under which he executed the documents.

#### § 501.6 Effective date.

An aircraft will be deemed to be registered upon the date the documents required by § 501.4 (a), (b), or (c), whichever is applicable, are mailed or delivered directly to the Aircraft and Airman Records Branch, Federal Aviation Agency, Oklahoma City, Oklahoma.

#### § 501.7 Transferability.

A certificate of registration is not transferable.

#### § 501.8 Duration.

When an application for registration made upon the prescribed form, and the

<sup>5</sup> As defined by section 101 (16) of the Federal Aviation Act of 1958, "Conditional Sale" means (a) any contract for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part under which possession is de-livered to the buyer and the property is to vest in the buyer at a subsequent time, upon the payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (b) any contract for the bailment or leasing of an aircraft, aircraft engine, propeller, appliance, or spare part, by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value thereof, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner thereof upon full compliance with the terms of the contract. The buyer, bailee, or lessee shall be deemed to be the person by whom any such contract is made or given.

<sup>\*</sup>Such evidence will normally consist of a statement or notation by the proper official of the country of foreign registry. However, consideration will also be given to a decree of a court of competent jurisdiction which vests title to the aircraft in the applicant and which finds that under the law of the country of foreign registry, that registry, although still subsisting, has in fact become invalid.

required proof of ownership have been mailed or delivered directly to the Federal Aviation Agency, an aircraft may be operated for the period pending registration, or for the period designated in a notice from the Federal Aviation Agency mailed to the applicant at the address shown on the application, whichever is shorter. Documents mailed or delivered to an agent for transmittal to the Federal Aviation Agency do not constitute mailing or delivery to the Administrator. The certificate of registration issued by the Administrator of the Federal Aviation Agency pursuant thereto shall remain in effect indefinitely unless suspended or revoked: Provided, That subject to the provisions of the International Convention on the Recognition of Rights in Aircraft, such registration and certificate shall immediately expire on the date:

- (a) The aircraft is registered under the laws of any foreign country; or
- (b) The registration of the aircraft is cancelled at the written request of the owner; or
  (c) The aircraft is totally destroyed or
- (c) The aircraft is totally destroyed or scrapped; or
- (d) The ownership of the aircraft is transferred.

#### § 501.9 Display.

The certificate of registration issued for any aircraft shall be displayed at all times in such aircraft at the cabin or cockpit entrance in such a manner that is legible to passengers or crew, and shall be presented upon request of any duly authorized representative of the Administrator of the Federal Aviation Agency, or any State or municipal official charged with enforcing local laws or regulations involving compliance with Federal law. If a certificate of registration is lost, stolen or mutilated, the person to whom such certificate was issued may apply for a duplicate to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma. A fee of one dollar (\$1.00) will be charged for the issuance of a duplicate certificate of registration. If a duplicate certificate has been requested and need for operation of the aircraft arises before the duplicate certificate of registration can be received, on request from the owner, the Aircraft and Airman Records Branch will issue a temporary certificate in the form of a telegram to be carried in the aircraft, which will be good for a period not to exceéd ten days.

#### § 501.10 Invalidation.

Any registration of an aircraft shall be null and void if at the time of registration:

- (a) The aircraft was registered under the laws of a foreign country; or
- (b) The person registered as owner was not the true and lawful owner of the aircraft; or
- (c) The person registered as owner was not a citizen of the United States; or
- (d) The person registered as owner was a citizen of the United States but the interest of such person in the aircraft was created by a transaction not entered into in good faith, being made rather for the purpose of avoiding, with or without the knowledge of the registered owner, the provision of the Federal Aviation Act of 1958 which prevents the registration of an aircraft in the name of a person not a citizen of the United States.

#### § 501.11 Surrender.

Upon the suspension, revocation, expiration, or invalidation of a certificate of registration, the owner of the aircraft shall, upon request, surrender such certificate to any authorized representative of the Administrator.

# § 501.12 Notice of change of ownership, registration, or address.

Upon sale, destruction, scrapping, or permanent retirement of the aircraft, or registration of the aircraft under the laws of any foreign country, the reverse side of the certificate of registration, Part A of Form FAA-500, shall be appropriately completed and returned immediately to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma. The registered owner of any aircraft shall notify the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma, immediately of any change of permanent mailing address.

This revision shall become effective 1960.

# PART 502—DEALERS' AIRCRAFT REGISTRATION CERTIFICATES

Sec. 502.1

. 1 Basis and purpose.

502.2 Application.

502.3 Requirements. 502.4 Limitations.

502.4 Limitations 502.5 Rules.

502.6 Notice.

#### § 502.1 Basis and purpose.

The purpose of the regulations in this part is:

- (a) To prescribe regulations for the registration of aircraft by persons engaged in the business of manufacturing, distributing or selling of aircraft;
- (b) To facilitate the operation, demonstration, and merchandising of aircraft moving in the ordinary trade channels from the manufacturer, distributor, or dealer to the ultimate purchaser without imposing apon the manufacturer, distributor, or dealer the burden of obtaining an individual certificate of registration for such aircraft

with each transfer of ownership as required under the registration provisions of Part 501 of this chapter; and

(c) To permit manufacturers to conduct required production flight tests.

Note: A dealers' aircraft registration certificate is an alternate form for the registration of civil aircraft to that prescribed by Part 501 of this chapter. Persons engaged in the business of manufacturing, distributing or selling aircraft, upon application, may obtain one or more dealers' aircraft registration certificates issued under the provisions of this part. The basis for this part is found in section 505 of the Federal Aviation Act of 1958.

#### § 502.2 Application.

Application for a dealers' aircraft registration certificate shall be made upon the Form FAA-1706 furnished by the Administrator of the Federal Aviation Agency and shall be submitted to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma, with the required registration fee of \$5.00 for the first certificate and \$1.00 for each additional or subsequent certificate issued to the same dealer. An application containing current data shall be signed in ink and shall be submitted each time certificates are requested and may cover as many certificates as are desired at that time.

#### § 502.3 Requirements.

To be eligible for a dealers' aircraft registration certificate an applicant shall be a citizen of the United States with an established place of business, located in the United States or any Territory or possession of the United States, engaged in the following activities:

- (a) The manufacture of aircraft, or
- (b) The distribution or sale of new aircraft under authority of a franchise, license, letter of authority, agreement, or other arrangement from the manufacturer or his authorized agent, or
- (c) The distribution or sale of used aircraft to ultimate purchasers through ordinary trade channels.

#### § 502.4 Limitations.

- (a) Operation. (1) A dealers' aircraft registration certificate shall be valid for the navigation of an aircraft only by a person to whom such certificate was issued, his duly authorized agent or employee, or a prospective purchaser.
- (2) A dealers' aircraft registration certificate is valid only for an aircraft owned by a person to whom such certificate was issued and which is being operated:
- ¹ As defined by section 101(13) of the Federal Aviation Act of 1958, "Citizen of the United States" means (a) an individual who is a citizen of the United States or of one of its possessions, or (b) a partnership of which each member is such an individual, or (c) a corporation or association created or organized under the laws of the United States or of any State, Territory, or possession of the United States, of which the president and two-thirds or more of the board of directors and other managing officers thereof are such individuals and in which at least 75 per centum of the voting interest is owned or controlled by persons who are citizens of the United States or of one of its possessions.

Article IX of the Convention on the International Recognition of Rights in Aircraft. signed at Geneva on June 9, 1948, (4 U.S.T. 1830) provides that "Except in the case of a sale in execution in conformity with the provisions of Article VII, no transfer of an aircraft from the nationality register or the record of a Contracting State to that of another Contracting State shall be made, unless all holders of recorded rights have been satisfied or consent to the transfer." As of the convention has come into effect between the United States and the following countries: Brazil, Pakistan, Norway, El Salvador, Chile, Argentina, Sweden, Laos and Ecuador. In addition, the Convention has been ratified by Mexico with reservations not recognized by the United States.

(i) In the ordinary trade channels between any two of the following persons: The manufacturer, the distributor, the dealer, or the purchaser from any of

such persons, or

(ii) For demonstration purposes necessary to the sale of such aircraft (Single place aircraft may be flown by prospective purchasers for sales demonstration purposes under the direct supervision and control of the person or his agent to whom the dealers' aircraft registration certificate was issued, provided the prospective purchaser is a properly certificated airman.) Charter flights or other flights which involve the carriage of passengers or property for hire are not permitted. The use of a dealers' aircraft registration certificate in an aircraft which is rented or leased under contract is prohibited, or

(iii) To conduct required production

flight tests.

(3) A dealers' aircraft registration certificate is valid for an aircraft only while the aircraft is operated within the United States and the territories and possessions of the United States, including the territorial waters and the overlying air space thereof.

(b) Transfer of ownership. Whenever the ownership of an aircraft is transferred to a person who is not the possessor of a valid dealers' aircraft registration certificate, the purchaser shall make application for registration of the aircraft in his name in accordance with the provisions of Part 501 of this chapter prior to the operation of the aircraft. Aircraft distributors or dealers, who are operating under the terms of a dealers' aircraft registration certificate are not required to submit documentary evidence of their ownership of a particular aircraft prior to operation of the aircraft.2 .

#### § 502.5 Rules.

The dealers' aircraft (a) Display. registration certificate shall be conspicuously displayed in the aircraft when operated by the person to whom the certificate was issued, or by his authorized agent or employee.

(b) Duration. A dealers' aircraft registration certificate shall expire one year from the date of issuance thereof.

(c) Transferability. A dealers' aircraft registration certificate is not transferable.

#### § 502.6 Notice.

The holder of a dealers' aircraft registration certificate shall notify the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma, immediately of any change which affects his status as a citizen of the United States as defined in section 101(13) of the Federal Aviation Act of 1958, or otherwise affects his eligibility

for a dealers' aircraft registration certificate.

This revision shall become effective .\_\_\_\_ 1960.

#### PART 503—RECORDATION OF AIRCRAFT OWNERSHIP

Sec.

503.1 Basis and purpose.

503.2 Definitions.

503.3 Eligibility of conveyance.

#### § 503.1 Basis and purpose.

The purpose of this part is to prescribe regulations for the recordation of conveyances affecting title to, or any interest in, any aircraft registered under the provisions of section 501 of the Federal Aviation Act of 1958, and Part 501 or Part 502 of this chapter. The basis for this part is found in section 503 of the Federal Aviation Act of 1958.

#### § 503.2 Definitions.

As used in this part, "conveyance" means:

(a) A bill of sale, contract of conditional sale, assignment of contract of conditional sale, or assignment of equitable interest under contract of conditional sale, mortgage, assignment of mortgage, lease, notice of tax lien or of other lien, or other instrument affecting title to, or any interest in, aircraft; and

(b) Any release, cancellation, invalidation, discharge, or satisfaction relating to any instrument recorded under

this part.

#### § 503.3 Eligibility of conveyance.

(a) A conveyance shall be eligible for recordation only if:

(1) It is executed upon the form prescribed by the Administrator of the Federal Aviation Agency for such type of conveyance, or upon a form deemed appropriate by the Administrator, and is submitted to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma;

(2) It describes the aircraft by make and model, manufacturer's serial number and Federal Aviation Agency registration number, or by other detail suffi-

cient to enable identification:

(3) It is the original document, an executed duplicate thereof with all signatures in ink which meets the requirements of Part 501.5 of this chapter. or if neither the original nor an executed duplicate is available, a true copy of a conveyance recorded under the laws of any state, territory, or possession of the United States, certified as such by the officer having custody of the records;

- <sup>1</sup> A recordable instrument is one which purports to be a "Conveyance" as that term is defined by section 101(17) of the Federal Aviation Act. Recordation of an instrument does not mean the instrument does, in fact, affect the title to, or any interest in, an
- 2 When return of the original conveyance to the sender is desired, a certified true copy thereof shall be submitted with the original document. After recording, the certified true copy will be retained and the original will be returned to the sender stamped with the date and hour of recordation. A certified true copy of an original document is a

(4) It affects an aircraft registered under the Federal Aviation Act of 1958, or is a bill of sale or contract of conditional sale to the holder of a Dealers' Aircraft Registration Certificate;

(5) It is acknowledged by the signer or signers before a notary public or other officer authorized by the law of the United States, or of a State or Territory or possession thereof, or the District of Columbia, to take acknowledgment of

deeds; 3 and

(6) It is accompanied by the required recordation fee of \$4.00 in the form of a check or money order made payable to the Federal Aviation Agency, for each aircraft covered by the conveyance: Provided, That this paragraph shall apply only to bills of sale unaccompanied by a duly executed application for registration and registration fee of \$4.00 or conveyances executed for security purposes such as contracts of conditional sale or chattel mortgages.

Note: No fee is charged for the recordation of any bill of sale or bills of sale accompanied by a duly executed application for registration and registration fee of \$4.00 or for the recordation of any release, cancellation, invalidation, discharge, or satisfac-tion of any conveyance executed for security

- (b) Additional requirements:

(1) Where the seller is not shown on the records of the Federal Aviation Agency as being the owner of the aircraft, the bill of sale shall be accompanied by a bill or bills of sale or similar instruments showing consecutive transactions from the last registered owner through all intervening owners and thence to him.

(2) A contract of conditional sale shall be signed and acknowledged by both the conditional seller and the conditional purchaser. If the conditional seller is not shown on the reconds of the Federal Aviation Agency as being the owner of the aircraft, the contract of conditional sale shall be accompanied by a bill or bills of sale or other documents establishing the fact that the conditional seller is the owner.

(3) An assignment of a contract of conditional sale shall be executed by the conditional seller (assignor) and contain a description of the contract unless it is attached to, and is a part of the original contract of conditional sale.4

(4) An assignment of equitable interest under a contract of conditional sale shall contain a description of the original contract so as to permit identification; shall be signed and acknowledged by the assignor (conditional purchaser under the original contract) and also be signed by the holder (conditional seller or his assignee) of the contract of conditional

<sup>2</sup> If a bill of sale is forwarded to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma, by the dealer prior to the sale of the aircraft, it will be recorded under section 503 of the Federal Aviation Act of 1958, and thus be safeguarded from loss or destruction. There is no fee for the recording of such bill of

document which is a complete copy of the original in all respects, including the dates, signatures, and acknowledgments, and to which is attached a certificate of a notary public stating that such officer has compared the copy with the original document and that it is a true and correct copy in all respects.

<sup>3</sup> A formal acknowledgment is required. Neither an affidavit of good faith nor a jurat alone is acceptable.

sale to show assent to the assignment of the equitable interest.

- (5) When the payments and conditions of the contract of conditional sale have been made or performed, the holder shall execute a release on the reverse side of Form FAA-818, which form is sent to the holder of the contract at the time of the recordation of the encumbrance, or its equivalent, and forward it for recordation.
- (6) A chattel mortgage shall be eligible for recording if:
  - (i) It is signed by the mortgagor; and
- (ii) The mortgagor is the registered owner of the aircraft, or the mortgagor applies for registration as provided in Part 501 of this chapter; except that a chattel mortgage may be recorded without the submission of an application for registration and registration fee if the mortgagor is the holder of a valid Dealers' Aircraft Registration Certificate and submits the documents establishing his ownership as outlined in § 501.4 of this chapter or if the mortgagor was the owner on the date of the execution of the mortgage and the documents recorded with this office establish that fact.
- (7) An assignment of a chattel mortgage shall be signed by the mortgagee (assignor) and unless it is attached to, and made a part of, the original mortgage, it shall contain a description of the mortgage and be accompanied by the \$4.00 recordation fee for each aircraft listed in the mortgage.
- (8) A supplement to a chattel mortgage which has been previously recorded by the Federal Aviation Agency shall meet all of the requirements for recording an original mortgage, which shall be described in the supplement in sufficient detail so as to permit identification, and shall be accompanied by a \$4.00 recordation fee for each aircraft listed therein.
- (9) When a chattel mortgage has been satisfied or any of the mortgaged aircraft released from the terms of the mortgage, the holder of the mortgage shall execute the release on the reverse side of Form FAA-506 (which form is sent to the holder at the time of recordation of the mortgage) or its equivalent, and forward it for recordation. If the mortgage is secured by a number of aircraft and all of the collateral is released, it is not necessary that the collateral be described in detail in the release document. However, the mortgage shall be clearly identified through the names of the mortgagor, mortgagee, and/or assignee, the date of recording with the Federal Aviation Agency, and the document number thereof.
- (c) Claims in respect of compensation due for salvage of aircraft, or for extraordinary expenses indispensable for the preservation of aircraft, pursuant to

Article IV of the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830), may be noted on the record by filing with the Aircraft and Airman Records Branch. Such claims need not be acknowledged before a notary public or other officer.

This revision shall become effective \_\_\_\_\_ 1960.

#### PART 504—RECORDATION OF EN-CUMBRANCES AGAINST SPECIFI-CALLY IDENTIFIED AIRCRAFT EN-GINES AND PROPELLERS

Sec.

504.1 Basis and purpose.

504.2 Definitions.

504.3 Eligibility of conveyances.

#### § 504.1 Basis and purpose.

. The purpose of this part is to prescribe regulations for the recordation of conveyances affecting the title to, or any interest in, any specifically identified aircraft engine or engines of seven hundred and fifty or more rated takeoff horse-power for each such engine or the equivalent of such horsepower, and any specifically identified aircraft propeller capable of absorbing seven hundred and fifty or more rated takeoff shaft horsepower. The basis for this part is found in section 503 of the Federal Aviation Act of 1958 as amended.

#### § 504.2 Definitions.

As used in this part, "conveyance" means:

- (a) Any lease, mortgage, equipment trust, contract of conditional sale, notice of tax lien or of other lien, or other instrument executed for security purposes, which instrument affects the title to, or any interest in, any specifically identified aircraft engine or engines of seven hundred and fifty or more rated takeoff horsepower for each such engine or the equivalent of such horsepower, or any specifically identified aircraft propeller capable of absorbing seven hundred and fifty or more rated takeoff shaft horsepower; or
- (b) Any assignment, amendment, or supplement of or to an instrument set forth in paragraph (a) of this section;
- (c) Any release, cancellation, discharge, or satisfaction relating to any of the instruments set forth in paragraphs (a) and (b) of this section.

#### § 504.3 Eligibility of conveyances.

- (a) A conveyance shall be eligible for recordation only if:
- (1) It affects an aircraft engine or propeller which is specifically identified by make, model and manufacturer's serial number;
- (2) It affects an aircraft engine of seven hundred and fifty or more rated takeoff horsepower or the equivalent of such horsepower, or an aircraft propeller capable of absorbing seven hundred and fifty or more rated takeoff shaft horsepower;
- (3) It is accompanied by the required recordation fee of \$2.00 in the form of a check or money order made payable to the Federal Aviation Agency, for each aircraft engine and propeller affected

by the conveyance: *Provided*, That this paragraph shall not apply to any release, cancellation, invalidation, discharge, or satisfaction relating to any conveyance recorded under this part;

(4) It is signed in ink and submitted to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma

City, Oklahoma; and

(5) It is acknowledged before a notary public or other officer authorized by the law of the United States, or of a State, Territory or possession thereof, or the District of Columbia, to take acknowledgment of deeds.

(b) Release: A release of the collateral listed in the encumbrance, or any part thereof, shall be signed in ink and acknowledged by the holder of the en-This release shall be in cumbrance. form equivalent to the release Form FAA-1991, and shall contain a description of the encumbrance, and the recording data furnished the holder at the time of its recording, and the collateral released. If a number of engines and/or propellers were listed in the encumbrance and all of that collateral is released, it will not be necessary to list the engines and/or propellers by serial number, but the release shall set forth that all of the engines and propellers encumbered have been released. The original recorded document shall be clearly identified by the names of the parties to the transaction, the date of recording with the Federal Aviation Agency, and the document number thereof.

This revision shall become effective \_\_\_\_\_ 1960.

#### PART 505—RECORDATION OF EN-CUMBRANCES AGAINST AIRCRAFT ENGINES, PROPELLERS, APPLI-ANCES, OR SPARE PARTS

Sec. 505.1

5.1 Basis and purpose.

505.2 Definitions.

505.3 Eligibility of conveyances.

#### § 505.1 Basis and purpose.

The purpose of this part is to prescribe regulations for the recordation of conveyances affecting the title to, or any interest in, any aircraft engines, propellers, or appliances maintained by or on behalf of an air carrier certificated under section 605(b) of the Federal Aviation Act of 1958, for installation or use in aircraft, aircraft engines, or propellers, or any spare parts maintained by or on behalf of such an air carrier, which instrument need only describe generally by types the engines, propellers, appliances, and spare parts covered thereby and designate the location or locations there-The basis for this part is found in section 503 of the Federal Aviation Act of 1958.

#### § 505.2 Definitions.

As used in this part, "conveyance" means:

(a) Any lease, mortgage, equipment trust, contract of conditional sale, no-

<sup>\*</sup>The description of an original conveyance shall include the date of the conveyance, the names of the parties thereto, the date of recording by the Federal Aviation Agency, and the recorded document number.

<sup>&</sup>lt;sup>5</sup>The name of a co-signer shall not appear in the body of the mortgage as a mortgagor (owner). If any person other than the registered owner of the aircraft signs the mortgage as a co-signer, he shall show the title "co-signer" beneath his signature.

<sup>&</sup>lt;sup>1</sup>A formal acknowledgment is required. Neither an affidavit of good faith nor a jurat alone is acceptable.

tice of tax lien or of other lien or other instrument executed for security purposes, which instrument affects the title to, or any interest in, any aircraft engines, propellers, appliances or spare parts maintained by or on behalf of an air carrier certificated under section 604(b) of the Federal Aviation Act of 1958: or

- (b) Any assignment, amendment, or supplement of or to an instrument set forth in paragraph (a) of this section;
- (c) Any release, cancellation, discharge, or satisfaction relating to any of the instruments set forth in paragraphs (a) and (b) of this section.

#### § 505.3 Eligibility of conveyances.

(a) A conveyance shall be eligible for recordation if:

(1) It affects aircraft engines, propellers, appliances, or spare parts maintained by or on behalf of an air carrier certificated under section 604(b) of the

Federal Aviation Act of 1958;

- (2) It contains or is accompanied by a statement by the mortgagor, conditional purchaser, lessee, etc., setting forth that the mortgagor, conditional purchaser, lessee, etc., is an air carrier certificated under section 604(b) of the Federal Aviation Act, and including therein information as to the pertinent part of the Civil Air Regulations under which the air carrier operating certificate was issued.
- (3) It specifically describes the location or locations of the aircraft engines, propellers, appliances, or spare parts covered thereby;
- (4) It is accompanied by the required recordation fee of \$2.00 in the form of a check or money order made payable to the Federal Aviation Agency, for each location: Provided, That this paragraph shall not apply to any release, cancellation, invalidation, discharge, or satisfaction relating to any conveyance recorded under this part;
- (5) It is signed in ink, and submitted to the Federal Aviation Agency, Aircraft and Airman Records Branch, Oklahoma City, Oklahoma; and
- (6) It is acknowledged before a notary public or other officer authorized by law of the United States, or of a State, Territory, or possession thereof, or the District of Columbia, to take acknowledgement of deeds.<sup>1</sup>
- (b) Release: A release of all of the collateral listed in the encumbrance or of all of the collateral at a particular location or locations, shall be signed in ink and acknowledged by the holder of the encumbrance releasing all of the collateral at the particular location or locations. This release shall be in form equivalent to the release Form FAA—1991, and shall contain a description of the encumbrance, the recording data furnished the holder at the time of its recording, and the location or locations of the released collateral. If the collateral at all of the locations listed in the encumbrance is released, it will not be necessary to list the locations, but

the release shall set forth that all of the collateral at all of the locations listed in the encumbrance has been released. The original recorded document shall be clearly identified by the names of the parties to the transaction, the date of recording with the Federal Aviation Agency, and the document number thereof.

This revision shall become effective 1960.

Issued in Washington, D.C., on February 18, 1960.

OSCAR BAKKE,
Director, Bureau of Flight Standards.
[F.R. Doc. 60-1758; Filed, Feb. 25, 1960;
8:52 a.m.]

### FEDERAL POWER COMMISSION

[ 18 CFR Parts 154, 157 ]

[Docket No. R-182]

# RATE AND CERTIFICATE FILINGS BY OPERATORS AND COOWNERS OF PRODUCING PROPERTIES

#### Notice of Proposed Rule Making

FEBRUARY 19, 1960.

- 1. Notice is hereby given of proposed rule making in the above-entitled matter.
- 2. The proposed amendments would further amend §§ 154.91, 154.102, and 157.23 of the regulations under the Natural Gas Act which prescribe regulations governing the filing of rate schedules, rate changes, bonds or undertakings, and certificate applications by independent producers of natural gas.
- 3. Under the present § 154.91 the filings referred to above are to be made (with certain exceptions) by an operator who is a signatory party to a contract for the sale of natural gas, and by a signatory coowner when the operator is not a signatory party. Such filings are not to be made by a nonsignatory coowner.
- 4. Said § 154.91 also permits a signatory coowner to make such filings, and this provision is the primary subject matter of the proposed amendments. It now appears that it may be desirable and in the public interest to permit only a single signatory operator or coowner to make filings.
- 5. Limitation of filings in this manner would assist the Commission by reducing the volume of work required in connection with the processing of such documents and eliminate unnecessary duplicate filing. It does not appear that the rights and interests of signatory nonoperators or coowners who would not be permitted to file would be adversely affected by the proposed amendments.
- 6. Section 154.102, recently prescribed by Order No. 215, prescribes the procedures to be followed in connection with motions to make effective rate changes at the end of the suspension period. The amendment herein proposed would, in effect, require that the bond or agreement and undertaking prescribed therein, when filed by an operator or co-owner who had filed the rate increase in accordance with § 154.91, would secure the payment of any refunds incurred by

all the coowners of the gas being sold and delivered under the suspended rate schedule.

- 7. The proposed amendments are as follows:
  - a. Amend § 154.91(b) (1) to read:
- (b) Filings by operators signatory to a gas sales contract. (1) Where the operator (i) of a natural gas producing property (not a producer selling pursuant to a percentage formula under paragraph (e) of this section), or (ii) of a plant processing natural gas and located in or near the production area of the gas it processes is a signatory party to a contract for the sale of the gas produced or processed, the operator shall make all the filings required under § 154.92 Rate schedules, § 154.94 Changes in rate schedules, or § 157.23 Applications for certificates of all signatories to the contract for such sale, as well as for the sale and delivery (according to the terms of the contract) of the gas of nonsignatory coowners.
- b. Amend the first sentence of § 154.91 (c) (1) to read:
- (c) Filings by signatory coowners.

  (1) Where gas is delivered by a well, unit, or plant operator under the terms of a contract of sale of an owner or owners to which the operator is not a signatory party, each of the signatory coowners shall be responsible for seeing that the filings required by §§ 154.92, 154.94, and 157.23 to cover the sale are made by one of them and such filings shall be made and accepted to cover the other coowners who are joint signatories to the sale contract, as well as for the sale and delivery (according to the terms of the contract) of the gas of nonsignatory coowners. \* \*

#### c. Amend § 154.91(c)(2) to read:

(2) Where the owner is an interstate pipeline transmission company it shall file a statement setting forth the names of all the coowners whose gas is so delivered and the respective percentum of ownership therein, and one of such coowners shall make all required filings in accordance with subparagraph (1) of this paragraph.

#### d. Amend § 154.91(d) to read:

(d) No multiple filings. Where under paragraph (b) or (c) of this section. filings of rate schedules, rate changes, and certificate applications covering the sale are required of the operator or of a signatory coowner, other coowners, whether or not signatory, may not file rate schedules, rate changes or certificate applications where their gas is being sold or delivered by the operator or a coowner according to the terms of a contract to which they are or are not signatory parties, whether or not the filings by operator or coowner as above required have been made. However, the signatory or nonsignatory coowner whose gas is being sold by the operator or coowner may where he has reserved the right to do so, elect to take his gas in kind and dispose of it otherwise if and when there has first been obtained authorization therefor to the extent required by sections 7(b), and 7(c), cr other applicable

<sup>&</sup>lt;sup>1</sup>A formal acknowledgment is required. Neither an affidavit of good faith nor a jurat alone is acceptable.

provisions of the Natural Gas Act, and filings have been made as required by section 4 thereof.

- e. Amend § 154.102(b) by adding a proviso so that it reads as follows:
- (b) Unless otherwise ordered by the Commission, increased rates or charges shall not be collected pursuant to paragraph (a) of this section until there be filed by the independent producer a bond or agreement and undertaking, to be approved by the Secretary, to comply with the provisions of paragraph (c) of this section: Provided, That where a filing for increased rates or charges pursuant to § 154.94 is made by an operator or coowner in accordance with § 154.91, the bond or agreement and undertaking

by such operator or coowner.

- f. In § 154.102(c) delete "The independent producer shall be obligated to refund" at the beginning of the paragraph and insert the following in lieu thereof: "(c) The independent producer, including any signatory or nonsignatory coowner, shall be obligated to refund \* \* \* ".
  - g. Amend § 157.23(c) to read:
- (c) Filings hereunder by signatory operators or coowners shall be made only in accordance with the provisions of § 154.91 of this chapter.
- 8. The above amendments to the Commission's regulations are proposed to be

required by this paragraph shall be filed issued under authority granted the Federal Power Commission by the Natural Gas Act, particularly sections 4, 7, and 16 thereof (52 Stat. 822, 824, 830; 15 U.S.C. 717c, 717f, and 717o).

9. Any interested person may submit on or before the 21st day of March 1960, to the Secretary, Federal Power Commission, Washington 25, D.C., data, views, and comments in writing concerning the proposed amendments. It is requested that an original and nine copies of any submittal be filed. The Commission will consider these written submittals before acting upon the proposed amendments.

> JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-1743; Filed, Feb. 25, 1960; 8:49 a.m.]

## **Notices**

### DEPARTMENT OF THE TREASURY

# Internal Revenue Service ORGANIZATION AND FUNCTIONS

### Office of Regional Commissioner

In Paragraph 1114.9, Assistant Regional Commissioner (Intelligence) which was published in 21 F.R. 10429, December 28, 1956, delete the last sentence in parentheses.

This change was effective January 1, 1960.

[SEAL]

CHARLES I. Fox, Deputy Commissioner.

[F.R. Doc. 60-1760; Filed, Feb. 25, 1960; 8:52 a.m.]

### DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Bureau Order 660]

#### AREA ADMINISTRATOR, AREA 4

Delegation of Authority To Negotiate a Contract for Personal or Professional Services

FEBRUARY 18, 1960.

Section 1. Delegation. Pursuant to the authority contained in section 3 of Order No. 2847 of the Secretary of the Interior dated January 22, 1960, the Area Administrator, Area 4 is authorized subject to the provisions of section 2 of this order, to exercise the authority delegated by the Administrator of General Services to the Secretary of the Interior (24 F.R. 1921) to negotiate, without advertising, under Section 302(c) (4) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 252 et seq.), a contract for architectural and engineering services for the design of preliminary plans, final plans, inspection of construction during process, and final inspection of a planned second story addition to the Parachute Loft and Equipment Building, Fire Control Station, Fairbanks, Alaska.

SEC. 2. Exercise of authority. The authority delegated by section 1 of this order shall be exercised in accordance with the applicable limitations in the Federal Property and Administrative Services Act of 1949, as amended, and in accordance with applicable policies, procedures and controls prescribed by the General Services Administration and the Department of the Interior. The authority delegated by this order does not include authority to make advance payments under section 305 of the act.

Edward Woozley, Director.

[F.R. Doc. 60-1722; Filed, Feb. 25, 1960; 8:46 a.m.]

### DEPARTMENT OF AGRICULTURE

## Office of the Secretary NORTH DAKOTA

#### Designation of Area for Production Emergency Loans

For the purpose of making production emergency loans pursuant to section 2(a) of Public Law 38, 81st Congress (12 U.S.C. 1148a-2(a)), as amended, it has been determined that in the following counties in North Dakota a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NORTH DAKOTA

Richland.

Sargent.

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named counties after June 30, 1960, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 19th day of February 1960.

TRUE D. MORSE, Acting Secretary.

[F.R. Doc. 60-1731; Filed, Feb. 25, 1960; 8:47 a.m.]

### DEPARTMENT OF COMMERCE

Federal Maritime Board
N.V. STOOMVAART MAATSCHAPPIJ
ET AL.

### Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shiping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 7607-2, between N.V. Stoomvaart Maatschappij "Nederland", Koninklijke Rotterdamsche Lloyd, N.V., N.V. Nederlandsch-Amerikaansche Stoomvaart Maatschappij "Holland-Amerika Lijn", and The Ocean Steam Ship Company, Ltd., The China Mutual Steam Navigation Co., Ltd., Nederlandsche Stoomvaart Maatschappij "Oceaan" N.V. (carriers comprising the Blue Funnel Line joint service, Agreement No. 7568), modifies Agreement No. 7607, as amended, covering the establishment and maintenance of a joint cargo and limited passenger service in the trades from Atlantic and Gulf ports of the United States to ports in the Colony of Singapore, Malayan Union, and Siam, via port or ports en route, but not including transportation within the purview of the coastwise laws of the United States nor trade to ports in the Netherlands East Indies. The purpose of the modification is to (1) change the trade name of the joint service from Blue Funnel Line—Java New York Line to Java New York Line; (2) substitute the port of Singapore for Colony of Singapore; (3) change the name of Malayan Union to Federation of Malaya, and Siam to Thailand, the present day designations of those countries; and (4) change the basis for apportionment among the joint service parties of expenses in connection with participation of the joint service in conference and other agreements.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: February 23, 1960.

By order of the Federal Maritime Board.

James L. Pimper, Secretary.

[F.R. Doc. 60-1748; Filed, Feb. 25, 1960; 8:49 a.m.]

## MEMBER LINES OF EAST COAST COLOMBIA CONFERENCE ET AL.

### Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 314):

(1) Agreement No. 75:90-8, between the member lines of the East Coast Colombia Conference, modifies the basic agreement of that Conference (No. 75:90, as amended), which covers the trade between U.S. Atlantic and Gulf ports and ports of Barranquilla, Cartagena and Puerto Colombia, Colombia, S.A. The purpose of the modification is to include the trade between U.S. Atlantic and Gulf ports and Santa Marta, Colombia, within the scope of the conference.

(2) Agreement No. 8061-6, between American President Lines, Ltd., Lykes Bros. Steamship Co., Inc., Isthmian Lines, Inc., Mitsui Steamship Company, Ltd., Prince Line, Ltd., N.V. Stoomvaart Maatschappij "Nederland", Koninklyke Rotterdamsche Lloyd, N.V., N.V. Nederlansch-Amerikansche Stoomvaart Maat-"Holland-Amerika schappii Kawasaki Kisen Kaisha, Ltd., Compagnie de Transports Oceanique, and the carriers comprising the Barber-Fern-Ville Lines, Blue Funnel Line, A. P. Moller-Maersk Line, and Marchessini Lines joint services, modifies approved Agreement No. 8061, as amended, which covers

an arrangement for the apportionment of the carriage of all rubber originating in Siam (except Bangkok local rubber) destined to United States Atlantic and Gulf ports whether loaded direct at Siam ports or transhipped by road, rail, or otherwise, to vessels of the carriers at ports in Malaya, Kohsichang or Bangkok. The purpose of this modification is to provide for (1) the admission of Marchessini Lines joint service as a party to Agreement No. 8061, as amended, and (2) the revision of the percentage distribution of rubber between the parties to said agreement because of the admission of Marchessini Lines to participation therein.

(3) Agreement No. 8061-A-2, between American President Lines, Ltd., Isthmian Lines, Inc., and Lykes Bros. Steamship Co., Inc., modifies approved Agreement No. 8061-A, as amended, a supplementary agreement to Agreement No. 8061, as amended, which covers an arrangement for the apportionment of rubber shipments from Siam (except Bangkok local rubber) to U.S. Atlantic and Gulf Agreement No. 8061-A, as amended, records the basis on which American President and Isthmian shall share any undercarried portion of rubber allocated to Lykes under Agreement No. 8061, as amended. The purpose of Agreement No. 8061-A-2 is to modify Agreement No. 8061-A, as amended, to reflect the percentage participation of American President and Isthmian in any undercarriage by Lykes of its proposed new percentage allotment under Agreement No. 8061, as provided by Agreement No. 8061-6, described above.

(4) Agreement No. 8387-2, between Transamerican Steamship Corporation (Transcaribbean Line), and Sartori & Berger (Michigan Ocean Line), modifies approved Agreement No. 8387, as amended, covering a sailing arrange-ment in the trade from ports of the Great Lakes of the United States and Canada, the St. Lawrence River, Nova Scotia, New Brunswick and Newfoundland, on the one hand, to ports in the Caribbean and on the North Coast of South America, on the other hand (not including transportation within purview of the coastwise laws of the United States). The purpose of the modification is to provide for an extension to March 31st of 1960, or any following year, of the date on or before which the agreement may be cancelled by either party giving written notice to the other.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the Federal Register, written statements with reference to any of these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: February 23, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER, Secretary.

[F.R. Doc. 60-1749; Filed, Feb. 25, 1960; 8:50 a.m.]

### ATOMIC ENERGY COMMISSION

[Docket No. 50-155]

### CONSUMERS POWER CO.

### Notice of Hearing on Application for Construction Permit

Pursuant to the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act") and the regulations in Part 2, 10 CFR, "Rules of Practice" notice is hereby given that a hearing will be held to consider the issuance of, a construction permit for a 75 megawatt (electrical) high power density boiling water nuclear reactor to be located at Big Point Rock, Charlevoix County, Michigan, and used for research and development, to Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan (hereinafter referred to as "the applicant"), under Sections 104b and 185 of the Act. For further information all interested persons are referred to the application which is available for public inspection at the AEC's Public Document Room, 1717 H Street NW., Washington, D.C. The hearing will commence at 10:30 a.m. on March 29, 1960, or on such later date as may be designated by the Presiding Officer, in the Auditorium of the AEC Headquarters, Germantown, Maryland.

The Commission has designated Samuel W. Jensch, Esq., as the Presiding Officer to conduct the hearing and to render a decision pursuant to § 2.751(a) of the Commission's rules of practice.

The issues to be considered at the hearing will be the following:

- 1. Whether the applicant has submitted sufficient information to provide reasonable assurance that a utilization facility of the general type proposed in the application can be constructed and operated at the proposed site without undue risk to the health and safety of the public:
- 2. Whether there is reasonable assurance that the technical information omitted from and required to complete the application will be supplied;
- 3. Whether the applicant is technically qualified to design and construct the proposed facility;
- 4. Whether pursuant to \$50.40(b) of the AEC's regulations the applicant is financially qualified to engage in the proposed activities; and
- 5. Whether construction of the reactor will be inimical to the common defense and security or to the health and safety of the public.

Petitions for leave to intervene must be received in the Office of the Secretary, Atomic Energy Commission, Germantown, Maryland, or in the AEC's Public Document Room, 1717 H Street NW., Washington, D.C., not later than March 28, 1960, or in the event of a postponement of the hearing date specified above, at such time as the Presiding Officer may provide.

Answers to this notice shall be filed by the applicant in the manner prescribed in § 2.736 of the Commission's rules of practice on or before March 22, 1960.

Papers required to be filed with the AEC in this proceeding shall be filed by

mailing to the Secretary, Atomic Energy Commission, Washington 25, D.C., or may be filed in person at the Office of the Secretary, Atomic Energy Commission, Germantown, Maryland, or at the AEC's Public Document Room, 1717 H Street NW., Washington, D.C. Pending further order of the Presiding Officer, parties shall file twenty copies of each such paper with the AEC and where service of papers is required on other parties shall serve five copies of each.

The report of the Advisory Committee on Reactor Safeguards in this matter will be available for public inspection in the AEC's Public Document Room prior to the hearing herein scheduled. Copies of such report may be obtained by request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation. If the report is not published and made available prior to the scheduled date of hearing, the hearing will be rescheduled.

Dated at Germantown, Md., this 19th day of February 1960.

For the Atomic Energy Commission.

H. L. PRICE, Director, Division of Licensing and Regulation.

[F.R. Doc. 60-1715; Filed, Feb. 25, 1960; 8:45 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 13410; FCC 60M-333]

## IDAHO MICROWAVE, INC. Order Scheduling Hearing

In re applications of Idaho Microwave, Inc., Docket No. 13410; for construction permit for new fixed radio station at Kimport Peak, Idaho (KPL24), File No. 2672-C1-P-58; for construction permit for new fixed radio station at Rock Creek, Idaho (KPL25), File No. 2673-C1-P-58; for construction permit for new fixed radio station at Jerome, Idaho (KPL26), File No. 2674-C1-P-58.

It is ordered, This 19th day of February 1960, that Charles J. Frederick will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on April 15, 1960, in Washington, D.C.

Released: February 19, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,

Secretary.

[F.R. Doc. 60-1765; Filed, Feb. 25, 1960; 8:52 a.m.]

[Docket No. 13391; FCC 60M-331]

#### HELMUT J. LELOV

#### Order Scheduling Hearing

In the matter of Helmut J. Lelov, P.O. Box 1147, Freeport, Texas, Docket No. 13391; order to show cause why there should not be revoked the License for

Radio Station WF-6798 aboard the vessel "Dubhe".

It is ordered, This 19th day of February 1960, that Walther W. Guenther will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on April 25, 1960, in Washington, D.C.

Released: February 19, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS, Secretary.

[F.R. Doc. 60-1766; Filed, Feb. 25, 1960; 8:52 a.m.]

[Docket No. 13394; FCC 60M-332]

# OIL TRANSPORT CO., INC. Order Scheduling Hearing

In the matter of Oil Transport Co., Inc., 2837 Tchoupitoulas Street, New Orleans, Louisiana, Docket No. 13394; order to show cause why there should not be revoked the License for Radio Station WC-5908 aboard the vessel "Susan Houghland".

It is ordered, This 19th day of February 1960, that David I. Kraushaar will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on April 25, 1960, in Washington, D.C.

Released: February 19, 1960.

[SEAL]

FEDERAL COMMUNICATIONS
COMMISSION,
MARY JANE MORRIS,

Secretary.

[F.R. Doc. 60-1767; Filed, Feb. 25, 1960; 8:52 a.m.]

[Docket No. 13408; FCC 60-147]

# ORANGE COUNTY BROADCASTERS Order Designating Application for Hearing on Stated Issues

In re application of Orange County Broadcasters, Anaheim, California, requests 1250 kc, 1 kw, DA, Day, Docket No. 13408, File No. BP-12241; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 17th day of February 1960;

The Commission having under consideration the above-captioned and described application;

It appearing that except as indicated by the issues specified below, the applicant is legally, technically, and otherwise qualified, but may not be financiallyqualified to construct and operate its instant proposal; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated October 23, 1959, and incorporated herein by reference, notified the applicant, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of the application would serve the public inter-

est, convenience, and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the applicant filed a timely reply to the aforementioned letter, which reply has not, however, entirely eliminated the grounds and reasons precluding a grant of the application and requiring an evidentiary hearing on the particular issues hereinafter specified; and in which the applicant stated that it would appear at a hearing on the instant application; and

It further appearing that after consideration of the foregoing and the applicant's reply, the Commission is still unable to make a statutory finding that a grant of the application would serve the public interest, convenience, and necessity; and is of the opinion that the application must be designated for hearing on the issues specified below;

It is ordered, That pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant application is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary service from Orange County Broadcasters and the availability of other primary service to such areas and populations.

2. To determine whether the instant proposal would involve objectionable interference with Stations KTMS, Santa Barbara, California, and KGIL, San Fernando, California, or any other existing standard broadcast station, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

3. To determine whether interference from Station KTMS would affect more than ten percent of the population within the normally protected primary service area of the instant proposal of Orange County Broadcasters in contravention of § 3.28(c)(3) of the Commission rules, and, if so, whether circumstances exist which would warrant a waiver of said section.

4. To determine whether the instant applicant is financially qualified to construct and operate its proposed station.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues whether a grant of the instant application would serve the public interest, convenience and necessity.

It is further ordered, That Pierce Brooks Broadcasting Corp. and News-Press Publishing Co., licensees of Stations KGIL and KTMS, respectively, are made parties to the proceeding.

It is further ordered, That, in the event of a grant of the instant application, the construction permit shall contain a condition that said grant is without prejudice to a grant of the application of Ben S. McGlashan (File No. BP-13123) for a construction permit to increase to one kilowatt the daytime power of Station KGFJ, Los Angeles, California, (1230 kc, 250 w, U, power reduced to 100 watts when KPPC, Pasadena, California, is operating), and, that, in the event the

proposed operation results in interference to the Commission's monitoring operations at Santa Ana, California, due to harmonic or other spurious emissions, the permittee shall take prompt corrective action to eliminate the interference.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and parties respondent herein pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

Released: February 23, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS, Secretary.

[F.R. Doc. 60-1768; Filed, Feb. 25, 1960; 8:52 a.m.]

#### SUPREME BROADCASTING CO., INC., OF PUERTO RICO AND RADIO AMERICAN WEST INDIES, INC.

[Docket Nos. 13076, 13077; FCC 60M-329]

### **Order Continuing Hearing Conference**

In re applications of Supreme Broadcasting Company, Inc., of Puerto Rico, Christiansted, St. Croix, Virgin Islands, Docket No. 13076, File No. BPCT-2575; Radio American West Indies, Inc., Christiansted, St. Croix, Virgin Islands, Docket No. 13077, File No. BPCT-2581; for construction permits for new television broadcast stations (Channel 8).

The Hearing Examiner having under consideration a joint motion filed February 16, 1960, on behalf of both of the applicants herein requesting that the prehearing conference now scheduled for February 19, 1960 be continued to March 21, 1960; and

It appearing that the reason for the requested continuance is the fact that both applicants are engaged in negotiations looking toward the possible merger of their interests and because of the distances involved additional time is needed in order to finalize the contemplated arrangement; and

It further appearing that counsel for the Broadcast Bureau has given his consent to immediate action on the joint motion, and good cause for the requested continuance having been shown;

It is ordered, This the 18th day of February 1960, that the joint motion for continuance is granted and the prehearing conference in this proceeding now scheduled for February 19, 1960 is continued to March 21, 1960.

Released: February 19, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JAME MORRIS, Secretary.

[F.R. Doc. 60-1769; Filed, Feb. 25, 1960; 8:53 a.m.]

[Docket Nos. 13155-13160; FCC 60M-330]

### WACO RADIO CO. ET AL. Order Continuing Hearing

In re applications of Jacob A. Newborn, Jr., Trustee for Nancy and Nena Newborn, tr/as Waco Radio Company, Waco, Texas, Docket No. 13155, File No. BP-9763; Hugh M. McBeath, Waco, Texas, Docket No. 13156, File No. BP-10001: Floyd Bell, Texarkana, Texas, Docket No. 13157, File No. BP-11870; Radio Broadcasters, Inc., Waco, Texas, Docket No. 13158, File No. BP-12465; Belton Broadcasters, Inc., Belton, Texas, Docket No. 13159, File No. BP-12934; H. A. Bridges, Jr., R. L. Hicks, Samuel R. Jones and James G. Ulmer, a partnership, d/b as Heart of Texas Broadcasters, Waco, Texas, Docket No. 13160, File No. BP-12985; for construction permits.

The Hearing Examiner having under consideration a motion filed February 17, 1960 on behalf of Floyd Bell and a supplement thereto filed February 18, 1960, requesting that the dates for certain procedural steps be extended as hereinafter ordered; and

It appearing from the pleadings that counsel for all parties have consented to the immediate consideration and grant of the motion and that a grant thereof will conduce to the orderly dispatch of

the Commission's business;

Now therefore, it is ordered, This 18th day of February 1960, that the aforesaid motion and supplement are granted, and that the dates for certain procedural steps are extended as follows: (1) Exchange of engineering exhibits from February 23 to March 14, 1960; (2) requests for additional information and notification of witnesses desired for cross-examination (engineering) from March 1 to March 21, 1960; and (3) commencement of hearing upon engineering matters from March 8 to April 4, 1960.

Released: February 19, 1960.

[SEAL]

FEDERAL COMMUNICATIONS
COMMISSION,
MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1770; Filed, Feb. 25, 1960; 8:53 a.m.]

[Docket Nos. 13397-13407; FCC 60-146]

### YORK COUNTY BROADCASTING CO. (WRHI) ET AL.

# Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of James S. Beaty, Jr., William C. Beaty and Harper S. Gault d/b as York County Broadcasting Company (WRHI), Rock Hill, South Carolina, has 1340 kc, 250 w, U, requests 1340 kc, 250 w, 1 kw-LS, U, Docket No. 13397, File No. BP-12178; WOOW, Inc. (WOOW), Greenville, North Carolina, has 1340 kc, 250 w, U, requests 1340 kc, 250 w, 1 kw-LS, U, Docket No. 13398, File No. BP-12217; WDSR, Inc. (WDSR), Lake City, Florida, has 1340 kc, 250 w, U, requests 1340 kc, 250 w, 1 kw-LS, U, Docket No. 13399, File No. BP-12219;

Duane F. McConnell, Clermont, Florida, requests 1340 kc, 250 w, U, Docket No. 13400, File No. BP-12227; Radio Sumter, Inc. (WSSC), Sumter, South Carolina, has 1340 kc, 250 w, U, requests 1340 kc. 250 w, 1 kw-LS, U, Docket No. 13401, File No. BP-12270; Daytona Beach Broadcasting Corporation (WROD), Daytona Beach, Florida, has 1340 kc, 250 w, U, requests 1340 kc, 250 w, 1 kw-LS, U, Docket No. 13402, File No. BP-12626; Robeson Broadcasting Corporation (WTSB), Lumberton, North Carolina, has 1340 kc, 250 w, U, requests 1340 kc, 250 w, 1 kw-LS, U, Docket No. 13403, File No. BP-12789; Oxford Broadcasting Corporation (WOXF), Oxford, North Carolina, has 1340 kc, 250 w, U, requests 1340 kc, 250 w, 1 kw-LS, U, Docket No. 13404, File No. BP-12948; New Hanover Broadcasting Company (WGNI), Wilmington, North Carolina, has 1340 kc, 250 w, U, requests 1340 kc, 250 w, 1 kw-LS, U, Docket No. 13405, File No. BP-13016; John P. Rabb (WJRI), Lenoir, North Carolina, has 1340 kc, 250 w, U, requests 1340 kc, 250 w, 1 kw-LS, U, Docket No. 13406, File No. BP-13108; Clearwater Radio, Inc. (WTAN), Clearwater, Florida, has 1340 kc, 250 w, U, requests 1340 kc, 250 w, 1 kw-LS, U, Docket No. 13407. File No. BP-13148; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 17th day of February 1960;

The Commission having under consideration the above-captioned and described applications;

It appearing, that, except as indicated by the issues specified below, each of the instant applicants is legally, technically, financially, and otherwise qualified to construct and operate its instant proposal; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated November 18, 1959, and incorporated herein by reference, notified the instant applicants, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of any one of the applications would serve the public interest, convenience, and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the instant applicants filed timely replies to the aforementioned letter, which replies have not, however, entirely eliminated the grounds and reasons precluding a grant of any one of the applications and requiring a hearing on each of the particular issues hereinafter specified; and

It further appearing that by letter dated December 8, 1959, the Forsythe Broadcasting Company, licensee of Sta-

tion WAIR, Winston-Salem, North Carolina, accepts any interference which may be caused to its existing operation from BP-12178, BP-12948 and BP-13108; that the above applicants have in return agreed to accept any interference which may be caused them if and when WAIR requests an increase to 1 kw; and

It further appearing that after consideration of the foregoing and the applicants' replies, the Commission is still unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity; and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues specified below:

It is ordered, That, pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary service from BP-12227 and the availability of other primary service to such areas and populations.

2. To determine the areas and populations which may be expected to gain or lose primary service from each of the instant proposals for a change in the facilities of an existing broadcast station and the availability of other primary service to such areas and populations.

3. To determine the nature and extent of the interference, if any, that each of the instant proposals would cause to and receive from each other and all other existing standard broadcast stations, the areas and populations affected thereby, and the availability of other primary service to the areas and populations involved in the interference between the proposals.

4. To determine whether the interference received from any of the other proposals herein and any existing stations would affect more than ten percent of the population within the normally protected primary service area of any one of the instant proposals in contravention of § 3.28(c) (3) of the Commission rules and, if so, whether circumstances exist which would warrant a waiver of said section.

5. To determine whether the following proposals would involve objectionable interference with the existing stations indicated below, or any other existing standard broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations:

<sup>&</sup>lt;sup>1</sup>On January 4, 1960, the Weaver Broadcasting Company, applicant in BP-13613 for an increase in power of Station WOKE, Charleston, South Carolina, filed a petition to have its proposal consolidated with the proposals in the instant Order. The petition will be acted on in a separate Order by the

Existing stations Proposals WOKE, Charleston, S.C. BP-13016... WOOW, Greenville, N.C. BP-13108----WGRV, Greeneville, Tenn. WRHI, Rock Hill, S.C. WDSR, Lake City, Fla. WNSM, Valparaiso-Niceville, BP-13148\_\_\_\_ Fla. WSEB, Sebring, Fla WYSE, Lakeland, Fla.

6. To determine whether BP-12227 would provide the coverage of the city sought to be served, as required by § 3.188(b) (2) of the Commission's rules.

7. To determine whether the instant proposal of BP-13148 would involve objectionable interference with Stations CMAL, Pinar Del Rio, Cuba, and CMGU, Matanzas, Cuba, in contravention of the provisions of the North America Regional Broadcasting Agreement.

8. To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the instant proposals would best provide a fair, efficient and equitable distribution of radio

service.

9. To determine, in the light of the evidence adduced, pursuant to the foregoing issues which, if any, of the instant applications should be granted.

It is further ordered, That, the follow-

ing licensees of the stations indicated are made parties to the proceeding:

Royal Broadcasting Company (WLCM),

Lancaster, South Carolina.
Community Broadcasters (WDAR), Darlington, South Carolina.

Weaver Broadcasting Company (WOKE), Charleston, South Carolina.

WEZY, Inc. (WEZY), Cocoa, Florida. Coastal Broadcasting Company (WLAT),

Conway, South Carolina. Piedmont Broadcasting Corporation

(WBTM), Danville, Virginia. Radio Greeneville, Inc. (WGRV), Greeneville, Tennessee.

Radio Sebring (WSEB), Sebring, Florida. Polk Radio, Incorporataed (WYSE), Lakeland, Florida.

Bay Broadcasting Company (WNSM), Valparaiso-Niceville, Florida.

It is further ordered, That, the following licensees who are applicants in the instant proceeding are made parties thereto with respect to their existing operations:

York County Broadcasting Company (WRHI), Rock Hill, South Carolina.

WOOW, Inc. (WOOW), Greenville, North Carolina.

WDSR, Inc. (WDSR), Lake City, Florida. Radio Sumter, Inc. (WSSC), Sumter, South Carolina.

Robeson Broadcasting Corporation (WTSB), Lumberton, North Carolina.

New Hanover Broadcasting Company (WGNI), Wilmington, North Carolina. John P. Rabb (WJRI), Lenoir, North

Carolina.

Clearwater Radio, Inc. (WTAN), Clearwater, Florida,

It is further ordered, That, in the event the proposal of BP-13148 is found to be in conflict with the provisions of the North American Regional Broadcasting Agreement but is favored in the hearing, it will be held without final action pursuant to the provisions of § 1.352 of the Commission rules, pending ratification of said Agreement.

It is further ordered, That, to avail themselves of the opportunity to be heard, the instant applicants and parties respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: February 23, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS. Secretary.

F.R. Doc. 60-1771; Filed, Feb. 25, 1960; 8:53 a.m.1

### FEDERAL POWER COMMISSION

[Docket No. G-20353]

AMERICAN LOUISIANA PIPE LINE CO. AND MIDWESTERN GAS TRANS-MISSION CO.

### Notice of Application and Date of Hearing

FEBRUARY 19, 1960.

Take notice that American Louisiana Pipe Line Company (American), and Midwestern Gas Transmission Company (Midwestern), Delaware corporations, with their respective principal offices in Detroit, Michigan, and Houston, Texas, filed a joint application in Docket No. G-20353 on December 14, 1959, pursuant to section 7 of the Natural Gas Act, for a certificate authorizing the exchange of natural gas with each other at a proposed point of interconnection between their respective main 30-inch transmission systems in Spencer County, Indiana. and to construct and operate metering and interconnecting facilities at the proposed point of interconnection, subject to the jurisdiction of the Commission, all as more fully described in the application on file with the Commission, and open to public inspection.

The application recites American and Midwestern entered into an exchange agreement, dated November 24, 1959, providing for receipts and deliveries of exchange volumes of gas by the two companies when such deliveries can assist the companies in their system operations, the purpose of which is to provide added flexibility to their respective transmission systems and thus to ensure continuity of service to their respective customers, particularly in cases of emergencies.

Midwestern proposes to install and operate a metering station at the interconnection of the two transmission systems and each party will construct and operate the necessary interconnecting facilities between its pipeline and the said metering station.

The application further recites that such exchanges will be made only when they will not impair service to their existing customers.

The cost of the proposed facilities is estimated as follows:

Estimated cost American-Tap connection\_\_\_\_\_ \$10,430 Midwestern-Metering facilities\_\_\_ 37,700

The cost will be defrayed by each from cash on hand.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Ges Act, and the Commission's rules of practice and procedure, a hearing will be held on March 17, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission. 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: Provided, however, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 14, 1960. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

> JOSEPH H. GUTRIDE. Secretary.

[F.R. Doc. 60-1736; Filed; Feb. 25, 1960; 8:48 a.m.l

[Docket No. RI60-136, etc.]

### F. A. CALLERY, INC., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates 1

FEBRUARY 18, 1960.

In the matter of F. A. Callery, Inc., et al., Docket No. RI60-136; Texaco Inc., Docket No. RI60-137; Maracaibo Oil Exploration Corporation (Operator), et al., Docket No. RI60-138; Sunray Mid-Continent Oil Company, Docket No. G-

<sup>1</sup> This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

20187: Socony Mobil Oil Company, Inc., Docket No. RI60-139; Socony Mobil Oil Company, Inc. (Operator), Docket No. RI60-140; Socony Mobil Oil Company,

Inc. (Operator), et al., Docket No. R160-141.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes are designated as follows:

	Respondent	sched-	Supple- ment No.	Purchaser and producing area	Notice of change dated—	Date tendered	Effective date unless sus- pended <sup>1</sup>	Date sus- pended until—	Cents per Mef		Rate in effect
Docket No.									Rate in effect	Proposed increased rate	subject to refund in docket Nos.
RI60-136	F. A. Callery, Inc., et al.	5	8	Tennessee Gas Transmission Co. (New Delhi Field, Harris County, Tex.).	1-18-60	1-19-60	2-19-60	7-19-60	13. 49751	² 16. 16947	
RI60-137	Texaco Inc	23	7	El Paso Natural Gas Co. (Big Lake West Field, Reagan County, Tex.).	Undated	1-22-60	2-22-60	7-22-60	12. 90247	2 14. 30696	G-16536 .
-	·	24	7	El Paso Natural Gas Co. (Jack Herbert Field, Upton County, Tex.).	do	1-22-60	<b>2-22-6</b> 0	7-22-60	{ 10.30719 12.92833	3 2 11. 6358 3 4-14. 3345	G-16536
		169	8	El Paso Natural Gas Co. (Todd Northwest Field, Crockett County, Tex.).	do	1-22-60	2-22-60	7-22-60	12. 91297	14. 3105	G-16536
RI60-138	Maracaibo Oil Exploration Corp. (Operator), et al.	1	19	Transcontinental Gas Pipe Line Corp. (Egan Field, Acadia Parish, La.).	1-22-60	1-22-60	- 2-22-60	7-22-60	17. 75	<sup>‡</sup> 23. 55	G-17660
G-20187	Sunray Mid-Conti- nent Oil Co.	80	to 1	United Gas Pipe Line Co. (Pistol Ridge and Maxic Fields, Forrest, Lamar, and Pearl River Counties, Miss.).	1-19-60	1-22-60	4-24-60	• 924-60	7 24. 0	6 5 23. 0	
RI60-139	Socony Mobil Oil Co., Inc.	8	4	Lone Star Gas Co. (Cruce, Goyle and Katle Fields, Stevens and Garvin Counties, Okla.).	1-26-60	1-27-60	2-27-60	7-27-60	11.0	16.8	G-14019
		. 77	3	Lone Star Gas Co. (Katie Field, Garvin County, Okla.).	1-26-60	1-27-60	2-27-60	7-27-60	11.0	16.8	G-14019
		130	3	Lone Star Gas Co. (Katie and N.W. Hoover Fields, Garvin County, Okla.).	1-26-60	1-27-60	2-27-60	7-27-60	11.0	• 16.8	G-14019
		143	1	Lone Star Gas Co. (N. Healdton Field.	1-26-60	1-27-60	2-27-60	7-27-60	11. 0	16.8	
RI60-140	Socony Mobil Oil Co., Inc. (Operator).	9	3	Carter County, Okla.). Lone Star Gas Co. (Fox-Graham Field, Carter County, Okla.).	1-26-60	1-27-60	2-27-60	7-27-60	9. 0	14.8	G-14102
RI60-141	Socony Mobil Oil Co.,	12	3	Lone Star Gas Co. (Katie Field, Garvin County, Okla.).	1-26-60	1-27-60	2-27-60	7-27-60	11.0	16.8	G-14038
	Inc.(Operator),et al.	14	4	Lone Star Gas Co. (Doyle Field, Stevens County, Okla.).	1-26-60	1-27-60	2-27-60	7-27-60	11.0	16.8	G-14038
	,	118	3	Lone Star Gas Co. (Panther Creek, Field, Garvin County, Okla.).	1-26-60	1-27-60	2-27 <sup>[</sup> 60	7-27-60	11. 0	16.8	G-14038

The stated effective dates are those requested by respondents, or the first day after the expiration of statutory notice, whichever is later.
 Pressure base is 14.65 psia.
 Low pressure gas.

contract was negotiated at arm's-length and the favored-nation clause was the primary inducement to seller to execute the contract and was also beneficial to buyer in permitting a low initial price. Maracaibo further states that the increased rate is just and reasonable and suspension thereof would be arbitrary and discriminatory since the Commission has certificated sales to Transco in the area at the 21.5 cent base rate.

Sunray Mid-Continent Oil Company (Sunray) has submitted a proposed amendment decreasing from 24.0 cents to 23.0 cents per Mcf the rate proposed by its earlier submitted Supplement No. 2 to its FPC Gas Rate Schedule No. 80 due to correction of redetermined rate.

Socony Mobil Oil Company, Inc., Socony Mobil Oil Company, Inc. (Operator), and Socony Mobil Oil Company, Inc. (Operator), et al. (Socony), in support of its proposed favored-nation increased rates, cites its contract favorednation provisions and the triggering initial rate of The British-American Oil Producing Company and states that the contracts resulted from extensive arm'slength negotiations in good faith. Socony also states that without provision for the price adjustments it would not have executed the contracts, and the increased rates do not exceed the current market value of the gas, and denial thereof would be confiscatory. Socony states additionally that the increased rates are needed to offset increasing

Or until such date as Supplement No. 2 to Sunray Mid-Continent Oil Company's FPC Gas.Rate Schedule No. 80 becomes effective in Docket No. G-20187, whichever is later:
7 Rate suspended in Docket No. G-20187 until April 24, 1960.

Rate decrease due to correction of redetermined rate.
 Pressure base is 14.65 psia.

costs and provide incentive for further exploration and development. The changes in rates and charges so

proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered. The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulfiess of the several proposed changes in rates and charges contained in the abovedesignated supplements.

(B) Pending hearings and decisions thereon, each of the above-designated supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Rate Suspended Until" column, plus footnotes thereto, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought

F. A. Callery, Inc., et al. (Callery), in support of its proposed redetermined increased rate, cites the contract provisions and submits copies of Tennessee Gas Transmission Company's price redetermination letter. Callery states that no gas has been delivered under the subject rate schedule since February 1958, but the one remaining oil well is being reworked for gas production which is expected to be small. \

Texaco Inc. (Texaco), in support of its proposed favored-nation increased rates, cites the contract favored-nation provisions and the triggering spiral-escalations increased rates of Phillips Petroleum Company, which are in effect subject to refund in Docket Nos. G-18417 and G-18418. Texaco also states that all price provisions of the contracts were agreed to after bona fide arm'slength negotiations and that the increased rates, which are just and reasonable, are needed to partially compensate seller for increasing costs of develop-ment, operation, and maintenance and to provide incentive for further exploration and development.

Maracaibo Oil Exploration Corporation (Operator), et al. (Maracaibo), in support of its proposed favored-nation increased rate, cites the contract favorednation provisions and submits copies of Transcontinental Gas Pipe Line Corporation's (Transco) letter advising of the triggering initial base rate of 21.5 cents per Mcf to Oil Participations, Inc. in the area. Maracaibo also states that the

High pressure gas.
Pressure base is 15.025 psia.

to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before April 4, 1960.

By the Commission.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-1737; Filed, Feb. 25, 1960; 8:48 a.m.]

[Project No. 2000]

## POWER AUTHORITY OF THE STATE OF NEW YORK

### Notice of Application for Amendment of License

FEBRUARY 23, 1960.

Public notice is hereby given that Power Authority of the State of New York, has filed application under the Federal Power Act (16 U.S.C. 791a–825r) for amendment of the license for Project No. 2000, known as the St. Lawrence Project, for deletion of Articles 14 and 15 of the license, pursuant to Public Law 278 and Public Law 86–124 (Act of July 31, 1959), and for revision of Article 27, prescribing the method of calculating the annual charges payable under the license, to conform with the method prescribed in the Commission's Order No. 205, issued June 6, 1958.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last date upon which protests or petitions may be filed is March 25, 1960. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-1738; Filed, Feb. 25, 1960; 8:48 a.m.]

[Docket Nos. G-13073, G-13966]

## SHERMAN NELSON AND PARSONS & NORMAN, ET AL.

### Notice of Applications and Date of Hearing

FEBRUARY 19, 1960.

Take notice that Sherman Nelson (Nelson) filed an application on August 15, 1957, in Docket No. G-13073 pursuant to section 7 of the Natural Gas Act, for a certificate of public convenience and necessity, authorizing the sale of natural gas to Trunkline Gas Company (Trunkline) from the Ed. Billo Lease in the North Fannin Field area, Goliad County, Texas, under a gas sales contract dated May 24, 1957.

On December 16, 1957, Nelson and Parsons & Norman filed a joint application in pending Docket No. G-13073 to seek approval of the Commission for Nelson to abandon his sale of natural

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gas from the Ed. Billo Lease and Parsons & Norman/to continue the subject sale under the contract of May 24, 1957.

On December 16, 1957, Nelson and Parsons & Norman filed a joint application in Docket No. G-13966 for authorization for Nelson to abandon service to Texas Illinois Natural Gas Pipeline Company from the Juan R. Lopez, et al., Lease in the Ybanez Field, Duval County, Texas, and Parsons & Norman to continue said sale under a contract dated April 15, 1957, previously accepted for filing as Sherman Nelson's FPC Gas Rate Schedule No. 1.

The respective applications state that on October 18, 1957, Nelson assigned his undivided ½ working interest in each of the aforementioned leases to Parsons & Norman which succeeded him as operator thereof.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 31, 1960 at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: Provided, however, That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before March 15, 1960. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

Joseph H. Gutride, Secretary.

[F.R. Doc. 60-1739; Filed, Feb. 25, 1960; 8:48 a.m.]

[Docket No. RI60-147]

#### SLADE, INC.

### Order Providing for Suspension of and Hearing on Proposed Rate Schedule

FEBRUARY 18, 1960.

On January 19, 1960 Slade, Inc. tendered for filing a proposed rate increase for the sale of natural gas to El Paso Natural Gas Co. (El Paso) from the producing area of Spraberry Field,

Glasscock and Reagan Counties, Texas. This filing was designated as Supplement No. 5 to Slade, Inc.'s FPC Gas Rate Schedule No. 4 and the increase, from 11.0 to 17.0 cents, or 5.0 cents per Mcf, at a pressure base of 14.65 psia, is based upon a contract amendment dated October 26, 1959, entered into pursuant to El Paso's current contract renegotiation program in the Permian Basin. The amendment eliminates favored-nation clauses from the contract, and provides for the 17.0 cents per Mcf rate until August 1, 1964, with 1.0 cents per Mcf increases each five-year period thereafter.

Slade, Inc. states that its gas sales contract was negotiated at arm's-length and that the elimination of the favored-nation clause is beneficial to all parties concerned by insuring a stable price and by relieving all parties of participation in formal hearings which might hereafter result if the favored-nation clause had been retained. Slade requests an effective date of January 1, 1960; an effective date is hereby established to be February 19, 1960, or thirty days from the expiration of statt tory notice.

The increased rate and charge so proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or

otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change and that Supplement No. 5 to Slade, Inc.'s FPC Gas Rate Schedule No. 4 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

- (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 5 to Slade, Inc.'s FPC Cas Rate Schedule No. 4.
- (B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until July 19, 1960, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.
- (C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.
- (D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.37(f)) on or before April 4. 1960.

By the Commission.

Joseph H. Gutride, Secretary.

[F.R. Doc. 60-1740; Filed, Feb. 25, 1960; 8:49 a.m.]

 $<sup>^{\</sup>rm 1}$  Now Peoples Gulf Coast Natural Gas Pipe- line Company.

[Docket No. G-10559 etc.]

# JAMES D. MADOLE ET AL. Notice of Severance

FEBRUARY 18, 1960.

In the matter of James D. Madole, et al., Docket No. G-10559 et al.; Tennessee Gas Transmission Company, Docket No. G-19084; Geode Petroleum Inc., Operator, et al., Docket No. G-19298.

Notice is hereby given that Docket Nos. G-19084 and G-19298 in the above-entitled proceedings which are scheduled for hearing on March 8, 1960, at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street

NW., Washington, D.C., are hereby severed therefrom.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-1742; Filed, Feb. 25, 1960; 8:49 a.m.]

[Docket Nos. RI60-142-RI60-146]

#### TEXACO INC., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates <sup>1</sup>

FEBRUARY 19, 1960.

a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street No. RI60-142; Cities Service Oil Com-

pany (Operator) et al., Docket No. RI60-143; Dewey Harris, et al., Docket No. RI60-144; The Atlantic Refining Company, Docket No. RI60-145; Humble Oil & Refining Company, Docket No. RI60-146.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas, subject to the jurisdiction of the Commission. In each filing the natural gas is sold at 14.65 psia, with the exception of Dewey Harris, et al., which is sold at 15.325 psia. The proposed changes are designated as follows:

		Rate	Supple.	•	Notice of	,	Effective date	Date	Cents p	er Mcf	Rate in effect
Docket No.	Respondent	sched- ule No.	ment No.	Purchaser and producing area	change dated—	Date tendered	unless sus- pended 1	sus- pended until <sup>1</sup>	Rate in effect	Proposed increased rate	subject to refund in docket Nos.
RI60-142	Texaco Inc	25 168	8 8	El Paso Natural Gas Co. (Bedford Field and South Andrews Field, Andrews County, (Tex.).	Undated	1-25-60 1-25-60	2-25-60 2-25-60	7-25-60 7-25-60	10. 87455 10. 29	12. 27627 11. 6164	G-16414 G-16414
RI60-143	Cities Service Oil Co., Operator, et al.	1	. 12	Trunkline Gas Co. (Columbus and Ramsey Fields, Colorado County, Tex.).	1-22-60	1-25-60	<b>2</b> ~25~60	7-25-60	15. 0	20.0	G-15210
RI60-144	Dewey Harris, et al	• 1	Ť	Equitable Gas Co. (Lewis County West Va.).	1-20-60	1-22-60	2-22-60	7-22-60	20. 0	25.0	
R160-145	The Atlantic Refining	172	4	Natural Gas P/L Co. of America (Camrick Southeast field, Texas and Beaver Counties, Okla.).	1-22-60	1-26-60	2-26-60	7-26-60	16. 6	16. 8	G-17988
RI60-146	Humble Oil & Refining Co.	10	18	Texas Eastern Trans. Corp. (Helen Gohlke Field, DeWitt County, Tex.).	1-21-60	1-26-60	2-26-60	7–26–60	15. C432	15. 3765	G-18324

<sup>1</sup> The stated effective dates are those requested by respondent, or the first day after expiration of the required statutory notice, whichever is later.

In support of its proposed favored-nation increase, Texaco Inc. cites the contract favored-nation provisions and the triggering spiral-escalation increased rates of Phillips' Petroleum Company, which are in effect subject to refund in Docket Nos. G-18417 and G-18418, and states that all price provisions of the contracts were agreed to after bona fide arm's-length negotiations. Texaco also states that the increased rates are needed to partially compensate for the increasing costs of development, operation and maintenance, and to provide incentive for further exploration and development.

Cities Service Oil Company in support of its proposed favored-nation-rate increase cites the 20 cents per Mcf rates at which it sells to Trunkline Gas Company which were certificated by the Commission's Opinion No. 321, and its provisions. favored-nation contract Cities 'Service also submits copies of Trunkline's favored-nation letter and states that the contract resulted from arm's-length negotiations, and the increased price is not unreasonable and is less than the going price and market value of gas in the area.

Dewey Harris, et al., in support of its proposed renegotiated rate increase states that drilling and other costs have increased greatly and submits copies of the letter agreement establishing the 25.0 cents per Mcf price.

Atlantic Refining Company in support of its proposed periodic rate increase cites the contract pricing provisions and states that the contract was negotiated at arm's length and that such pricing

provisions are common in long-term contracts and are beneficial to both buyer and seller in permitting initial deliveries at a low price during the time buyer's unamortized capital investment is high and providing the seller progressively higher prices contemporaneously with inevitable increases in costs.

Humble Oil & Refining Company in support of its proposed redetermined rate increase cites its contract provisions and submits copies of Texas Eastern's price redetermination letter. Humble states that the contract was entered into in good faith as a result of arm's-length bargaining and that the increased price is reasonable and in line with going prices in the area. Humble states additionally that denial of the increased price would abrogate the contract and be unjust, unreasonable and confiscatory.

The increased rates and charges so proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearings and decisions thereon, each of the above-designated supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Rate Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)), on or before April 4, 1960.

By the Commission.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-1741; Filed, Feb. 25, 1960; 8:49 a.m.]

<sup>&</sup>lt;sup>1</sup>This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

# SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4015]

### CONSOLIDATED DEVELOPMENT CORP.

### **Order Summarily Suspending Trading**

FEBRUARY 19, 1960.

In the matter of trading on the American Stock Exchange in the common stock, par value 20 cents per share of Consolidated Development Corporation (formerly known as Consolidated Cuban Petroleum Corporation); File No. 1-4015.

The common stock, par value 20 cents per share of Consolidated Development Corporation (formerly known as Consolidated Cuban Petroleum Corporation), being listed and registered on the American Stock Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

the protection of investors; and
The Commission being of the opinion
further that such suspension is necessary
in order to prevent fraudulent, deceptive
or manipulative acts or practices, with
the result that it will be unlawful under
section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's
Rule 15c2-2 thereunder for any broker
or dealer to make use of the mails or of
any means or instrumentality of interstate commerce to effect any transaction
in, or to induce or attempt to induce the
purchase or sale of such security, otherwise than on a national securities
exchange:

It is ordered, Pursuant to section 19(a) (4) of the Securities Exchange Act of 1934 that trading in said security on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, February 22, 1960 to March 2, 1960, both dates inclusive.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F.R. Doc. 60-1725; Filed, Feb. 25, 1960; 8:46 a.m.]

[File No. 70-3856]

#### OHIO POWER CO.

#### Notice of Proposed Acquisition of Utility Assets

FEBRUARY 18, 1960

Notice is hereby given that Ohio Power Company ("Ohio"), a public-utility subsidiary of American Electric Power Company, Inc. ("American"), a registered holding company, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 9

and 10 of the Act as applicable to the proposed transaction.

All interested persons are referred to said application on file in the Head-quarters Office of the Commission for a statement of the proposed transaction which is summarized as follows:

Pursuant to an ordinance approved by the people of the Village of Minerva, Ohio, authorizing the sale of its electric utility system for cash, to the highest bidder, Ohio proposes to submit a bid of \$901,250 therefor. The properties consist principally of one steam generating plant, a distribution system, and a street lighting system.

It is stated that Minerva is situated within Ohio's service area and in close proximity to communities presently served by Ohio, and that upon consummation of the acquisition, the properties will be physically connected with Ohio's facilities. The application states that it is expected that integration of the acquired property with, the Ohio system will result in improvement of local service and a reduction in electric rates.

Fees and expenses of Ohio are estimated not to exceed \$1,500. It is stated that, no State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 2, 1960, request in writing that a hearing. be held on the matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission. Washington 25, D.C. At any time after said date the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F.R. Doc. 60-1726; Filed, Feb. 25, 1960; 8:46 a.m.]

### SMALL BUSINESS ADMINISTRA-TION

[Delegation of Authority 30 (Revision 6)]

#### **REGIONAL DIRECTORS**

Delegation Relating to Financial Assistance, Investment Program, Procurement and Technical Assistance and Administration

I. Pursuant to the authority vested in the Administrator by the Small Business Act, Pub. Law 85-536, as amended; Pub. Law 85-699; the Small Business Investment Act of 1958 (Pub. Law 85-699); Reorganization Plan No. 2 of 1954, dated April 29, 1954 (83d Cong., 2d Sess.); Reorganization Plan No. 1 of 1957, dated April 29, 1957 (85th Cong., 1st Sess.); and the Memorandum of Understanding, dated October 19, 1956 as amended, between the Secretary of the Interior and the Administrator of the Small Business Administration (pursuant to section 4 of the Fish and Wildlife Act of 1956, 70 Stat. 1119, 1121) relating to the operation of the Fisheries Loan Fund, there is hereby delegated to each Regional Director within his Region, the authority:

A. Financial assistance. 1. To approve and decline direct and participation business and disaster loans.

2. To disburse approved loans.

3. To enter into Business Loan and Disaster Loan Participation Agreements with banks.

4. To execute loan authorizations for Washington approved loans and for loans approved under delegated authority, said execution to read as follows:

- 5. To cancel, reinstate, modify and amend authorizations for business or disaster loans.
- 6. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.
- 7. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents and certify to the participating bank that such documents are in compliance with the participation authorization.

8. To approve service charges by participating bank not to exceed 2 percent per annum on the outstanding balance in connection with construction loans and loans involving accounts receivable and inventory financing.

and inventory financing.

9. To establish Disaster Field Offices upon receipt of advice of the designation of a disaster area and to advise on the making of disaster loans, to appoint as a processing representative any bank in the disaster area, and to close Disaster Field Offices when no longer advisable to maintain such offices.

10. To take the following actions in the administration of fisheries' loans:

(a) Amend loan authorizations;

(b) Extend the period of disbursement of loans of \$50,000 or less for a period not to exceed four months:

- (c) Amend the hull insurance provision of any authorization issued prior to January 31, 1958, for a loan of \$20,000, or less:
- (d) Cancel loan authorizations prior to disbursement upon the written request of the applicant;
- (e) Disburse fisheries' loans in the same manner as SBA business loans; and
- (f) Administer current fisheries' loans and those loans delinquent not more than 60 days within the same authority exercised with respect to SBA loans, except execute satisfactions, releases or partial releases of Preferred Ship Mortgages, or other mortgages, deeds of trust, etc., securing fisheries' loans, or to postpone or change payments due or to endorse checks in payment of insurance claims when said checks are not being

paid to the Government as a payment on a fishery loan.

11. To take all necessary actions in connection with the administration, servicing, collection and liquidation of all loans and other obligations or assets, including collateral purchased, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to be done for the purpose of effectuating the granted powers, including without limiting the generality of the foregoing:

(a) The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses; certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator:

Provided, however, That he may not assign, endorse, transfer, deliver, modify. surrender, satisfy, discharge, release, subordinate or cancel, in whole or in part, judgments and judgment liens, certificates or other instruments issued by receivers, trustees, liquidators or other officers or officials, representing claims allowed against or interests in receivership, bankruptcy or other, estates, without the prior written approval of the Regional Counsel or the United States Attorney, in those cases where the latter is involved in the proceedings.

(b) The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale or special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) or liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing;

B. Investment program. 1. To dis-

burse section 502 loans.

2. To extend the disbursement period of section 502 loan authorization or undisbursed portions of section 502 loans.

3. To cancel wholly or in part undisbursed balances of partially disbursed section 502 loans.

4. To do and to perform all and every act and thing requisite, necessary and proper to be done for the purpose of effecting the servicing and administra-

tion of section 502 loans. C. Procurement and technical assistance. 1. To: (a) Determine joint setasides for Government procurements and sales; (b) to determine the need for representation at procurement and disposal centers; and (c) develop with Government procurement and disposal agencies required local procedures for imestablished inter-agency plementing

policy agreements.

2. To deny an application for a Certificate of Competency when the Regional Director agrees with an adverse survey report as to production or credit, unless application for an SBA loan is being filed, which loan must be approved in the Washington Office.

D. Administration. 1. To administer oaths of office.

2. To certify to the Controller for payment, employee suggestion awards, for suggestions put into effect in the Region. in an amount not to exceed \$100 for each award.

3. To advertise regarding the public sale of (a) collateral in connection with the liquidation of loans, and (b) ac-

quired property.

4. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by United States Attorneys in foreclosure cases.

5. To determine the need for an Imprest Fund.

6. To approve (a) annual and sick leave; (b) advanced sick leave, not to exceed 30 days; (c) advanced annual leave, not to exceed the amount of annual leave the employee would earn during the leave year; (d) leave without pay, not to exceed 30 days; and (e) overtime for employees under his supervision.

7. To (a) make emergency purchases chargeable to the Administrative expense fund, not in excess of \$50 in any one object class in any one instance but not more than \$100 in any one month for total purchases in all object classes; (b) make purchases not in excess of \$10 in any one instance for "one-time use items" not carried in stock subject to the total limitations set forth in (a) of this paragraph; and (c) to contract for the repair and maintenance of equipment and furnishings in an amount not to exceed \$25 in any one instance.

8. In connection with the establishment of Disaster Loan Offices, to (a) obligate Small Business Administration to reimburse General Services Administration for the rental of office space; (b) rent office equipment; and (c) procure (without dollar limitation) emergency supplies and materials.

9. To administratively approve all types of vouchers, invoices and bills submitted by public creditors of the Agency for articles or service rendered.

10. To (a) authorize or approve official travel; (b) approve expenses incident to change of official duty station; and (c) administratively approve travel reimbursement claims.

11. To procure from General Services Administration all standard forms and all supply items listed in Part I of the SBA Index of Standard Supply Items.

12. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

13. To authorize expenditures for registration fees not in excess of \$25 each.

14. To approve personnel actions, including but not limited to, appointments, promotions, reassignments, transfers, and separations, for all non-technical employees of his region in grades GS-7 and below.

15. To clear applicants for non-sensitive, non-technical positions in grades GS-7 and below and grant security clearance to employees when the security investigation discloses no derogatory information.

16. To establish and classify all nontechnical positions subject to the Classification Act of 1949, as amended, in grades GS-1 through GS-7.

E. Eligibility. 1. To determine the size of applicants for assistance in accordance with the specific definitions set forth in §§ 121.3-8, 121.3-9, 121.3-10 and 121.3-11 of the Small Business Size Standards Regulation, as amended (13) CFR Part 121), and within the rules set forth in § 121.3-4 of said regulation, except where such determination involves questions of affiliation including franchise agreements, license agreements, or other similar contractual arrangements.

2. To determine eligibility of applicants for assistance under any program of the Agency in accordance with Small Business Administration standards and policies.

F. Correspondence. To sign all correspondence, including congressional correspondence relating to the functions of the Regional Office, except communications involving new policy matters which shall be referred to the appropriate Washington Office for clearance.

II. The specific authority in subsection I.A.9; subsection I.C.2; and subsections I.D.2, 3, 4, 5, 6(b), (c) and (e), 10(b), 13, 14, and 15 may not be re-delegated.

III. All authority delegated herein may be exercised by any Small Business Administration employee designated as Acting Regional Director.

.IV. All previous authority delegated by the Administrator to each Regional Director by Delegation of Authority No. 30 (Revision 5) is hereby rescinded without prejudice to actions taken under such Delegation of Authority prior to the date hereof.

Efféctive date: January 11, 1960.

PHILIP McCallum. Administrator.

[F.R. Doc. 60-1727; Filed, Feb. 25, 1960; 8:46 a.m.]

# U.S. STUDY COMMISSION—

#### STATEMENT OF ORGANIZATION - AND FUNCTIONS

Creation and purpose. The U.S. Study Commission on the Neches, Trinity, Brazos, Colorado, Guadalupe, San Antonio, Nueces, and San Jacinto River Basins and intervening areas, for brevity referred to as the U.S. Study Commission-Texas, was created by Title II of Public Law 85-843, approved August 28, 1958 (72 Stat. 1058), as amended by Public Law 86-228, approved September 8, 1959 (73 Stat. 457). It is an independent Federal agency charged with preparing a basic, comprehensive, and integrated plan for the conservation, utilization, and development of the land water resources of the eight river basins named and intervening areas within the State of Texas.

Organization and authority. Commission is authorized to be composed of 16 members appointed by the President (13 of whom were appointed

on December 18, 1958, and 2 on December 3, 1959) as follows: A Chairman, resident of the area; eight members nominated by the Governor, each a resident of a different one of the eight river basins; a representative of the Texas' State Board of Water Engineers nominated by the Governor; a member from each of six Federal agencies (Army; Interior; Health, Education, and Welfare; Commerce; Agriculture; and the Federal Power Commission).

The Commission is directly responsible for all policy aspects and, within the policies it establishes, the Chairman is vested with responsibility for appointment and supervision of staff personnel, distribution of business among them, and the use and expenditure of funds. Information concerning the Commission and its activities may be obtained from the Executive Director, U.S. Study Commission-Texas, 980 M & M Building. Houston 2, Texas.

> GEORGE R. BROWN, Chairman.

[F.R. Doc. 60-1764; Filed, Feb. 25, 1960; 8:52 a.m.]

### DEPARTMENT OF LABOR

Office of the Secretary

#### INVESTIGATION AND PROSECUTION OF CRIMES AND CIVIL ENFORCE-MENT ACTIONS

#### Notice of Memorandum of Understanding Between Departments of Justice and Labor

Section 607 of the Labor-Management Reporting and Disclosure Act of 1959 (Pub. Law 86-257; 73 Stat. 519), effective September 14, 1959, provides, in essence, that in order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary of Labor may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under such Act and the functions of any such agency as he may find to be practicable and consistent with law. Such section further provides for the utilization by the Secretary of facilities or services, among others, of any Department of the United States, including the services of any of its employees, with the lawful consent of such Department. Each such Department is authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to provide such information and facilities as the Secretary may request for his assistance in the performance of his functions under such Act.

In the interest of providing economical and effective discharge of his investigation and enforcement responsibilities under said Act and to avoid unnecessary duplication of functions, the Secretary of Labor has entered into agreement with the Attorney General of the United States under the provisions of the said section 607 of such Act.

Therefore, pursuant to section 3 of the Administrative Procedure Act (5 U.S.C. 1002) notice is hereby given and hereby published of the aforesaid agreement, entered into pursuant to section 607 of the Labor-Management Reporting and Disclosure Act of 1959 (Pub. Law 86-257; 73 Stat. 519), which reads as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENTS OF JUSTICE AND LABOR RELATING TO THE INVESTIGATION AND PROSE-CUTION OF CRIMES AND CIVIL ENFORCEMENT ACTIONS UNDER THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959 (P.L. 86-257)

Whereas, the Labor-Management Reporting and Disclosure Act of 1959 (Public Law 86-257; 73 Stat. 519) imposes certain duties and responsibilities upon the Attorney General and Secretary of Labor with regard to prosecution of crimes arising under the Act and civil enforcement actions under the Act;

Whereas, that Act, in section 601, imposes upon the Secretary of Labor the responsi-bility for conducting investigations of persons who have violated, or are about to violate, any provision of the Act (except Title I, or amendments made by this Act to other statutes); and

Whereas, that Act, in section 607 provides that the Secretary of Labor may make interagency agreements which may help to avoid unnecessary expense and duplication of functions among Government agencies and ensure cooperation and mutual assistance in the performance of functions under the Act:

Whereas, it is desirable and essential that the areas of responsibility and the procedure in connection with the investigations, prosecutions of offenses and civil enforcement actions arising under the Act should be the subject of formal agreement between the Departments;

It is hereby agreed and understood between the Department of Justice and the Department of Labor as follows:

1. Criminal Prosecutions. All cases involving violation of the criminal provisions of the Act will be prosecuted by the Department of Justice. Those cases investigated by the Department of Labor, hereinafter detailed, will be referred to the Criminal Division, Department of Justice as provided in

section 607. 2. Investigations of Matters Made Criminal by the Act. Subject to specific arrangements agreed upon by the Department of Justice and the Department of Labor on a case by case basis, investigation under the

Act will be conducted as follows: (a) The Department of Labor will through its own staff investigate those criminal mat-ters arising under:

1. Title II (Reporting by abor organizations, officers and employees of labor organizations and employers).

2. Title III (Trusteeship).

3. Section 502 (Bonding) of Title V. 4. Section 503 (a) (Making of loans by labor organizations to officers and employees of the labor organization) of Title V.

5. That part of section 503(b) of Title V which relates to the payment of a fine of a

labor official or employee by a labor union.

(b) The Department of Justice will, under delegation from the Secretary of Labor, investigate those criminal matters arising

1. Section 501(c) (Embezzlement of union funds) of Title V.

2. That part of section 503(b) of Title V

which refers to a payment of a fine of a labor official or employee by an employer.

3. Section 504 (Prohibition against certain persons from holding office) of Title V.

4. Section 505 (Containing an amendment to section 302, Labor Management Relations Act of 1947, as amended) of Title V.

5. Section 602 (extortionate picketing) of Title VI.

6. Section 610 (deplitation) force and violence) of Title VI.

Notification. Whenever either Departments

ment learns or is informed of any matter coming within the investigative jurisdiction of the other Department, as set forth above, it will notify such other Department in writing and furnish all information in its pos-

session regarding the matter.
4. Exercise of other functions. of delegated investigative authority by the Department of Justice pursuant to agreement shall not preclude the Department of Labor from making inquiries for the purpose of administrative action related to the crime being investigated. Nothing in this Memorandum of Understanding shall be construed to affect the investigative jurisdiction of the Department of Justice under other statutes.

5. Prosecution of Civil Enforcement Actions. Any violations of the Act which form the basis for civil enforcement actions will be investigated by the Department of Labor. Whenever the Department of Labor concludes that a civil enforcement action should be instituted, it will refer the case to the Department of Justice, with the request that suit be instituted on behalf of the Secretary of Labor, and will furnish the Department of Justice with all pertinent information in the possession of the Department of Labor. Upon receipt of such request, the Department of Justice will institute and will conduct the civil enforcement action on behalf of the Secretary of Labor. The Department of Justice will not institute any civil enforcement action under the Act except upon the request of the Department of Labor, nor will the Department of Justice voluntarily dismiss any action so instituted except with the concurrence of the Department of Labor. The Department of Justice will dismiss any action so instituted upon the request of the Department of Labor. Department of Justice attorneys will collaborate with the attorneys of the Office o. the Solicitor of the Department of Labor in the preparation and, to the extent feasible, in the presentation of such actions in court.

6. Parole Board Proceedings. The investigation and presentation of issues concerning the appropriateness of a grant of a certificate under section 504(a) to an individual by the Board of Parole will be the responsibility of the Department of Labor. including appearances before the Board of Parole.

7. Instructions. So that the terms of understanding will be effectively performed both Departments will issue instructions for the guidance of its officers, such instructions to be submitted for comment prior to their issuance to the other Department.

8. Periodic reviews of this agreement will be made to determine any adjustments which seem necessary based on experience under this Act.

JAMES P. MITCHELL. Secretary of Labor.

Dated: February 16, 1960.

Approved:

WILLIAM P. ROGERS. Attorney General.

Signed at Washington, D.C., this 19th day of February 1960.

> JAMES T. O'CONNELL, Acting Secretary of Labor.

[F.R. Doc. 60-1757; Filed, Feb. 25, 1960; 8:52 a.m.]

# Wage and Hour Division LEARNER EMPLOYMENT CERTIFICATES

#### Issuance to Various Industries

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards. Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), and Administrative Order No. 524 (24 F.R. 9274), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Angelica Uniform Co., 1427 Olive Street, St. Louis, Mo.; effective 2-2-60 to 2-1-61 (men's washable service apparel, coats; women's washable service uniforms).

Anthracite Overall Manufacturing Co., Inc., 430 Penn Avenue, Scranton, Pa.: effective 2-2-60 to 2-1-61. Learners may not be employed at special minimum wage rates in the production of women's garments (men's work and dress pants).

The Asher Co., 7 Willow Street, Fitchburg, Mass.; effective 2-10-60 to 2-9-61 (men's and boys' slacks).

Carwood Manufacturing Co., Lavonia, Ga.; effective 2-19-60 to 2-18-61 (men's and boys' ivy league pants).

Carwood Manufacturing Co., Cornelia, Ga.; effective 2-19-60 to 2-18-61 (men's work and sport shirts).

Ely and Walker, a Division of Burlington Industries, Inc., Monterey, Tenn.; effective 2-3-60.to 2-2-61 (boys' sport shirts).

Federal Corset Co., Airport, Hangar No. 1, Douglas, Ga.; effective 2-2-60 to 2-1-61 (women's girdles and brassieres).

M. Fine and Sons Manufacturing Co., Inc., 12th and K St., Bedford, Ind.; effective 2-4-60 to 2-3-61 (cotton work pants).

J. Freezer and Son, Inc., Radford, Va.; effective 2-18-60 to 2-17-61 (men's, boys' and ladles' shirts).

Glenridge Trouser Corp., Tipton, Mo.; effective 2-1-60 to 1-31-61 (men's sport and dress slacks).

Hartwell Garment Co., Hartwell, Ga.; effective 2-12-60 to 2-11-61 (work pants and shirts).

Jaco Pants, Inc., 501 East Washington Street, Ashburn, Ga.; effective 2-9-60 to 2-8-61 (men's pants).

The Kramer Co., 16 South Eutaw Street,

The Kramer Co., 16 South Eutaw Street, Baltimore, Md.; effective 2-3-60 to 2-2-61 (ladies' blouses).

Meyersdale Manufacturing Co., Inc., Meyersdale, Pa.; effective 2-16-60 to 2-15-61 (men's shirts)

(men's shirts).

Monticello Manufacturing Inc., Warren
Street, Monticello, Ga.; effective 2-10-60 to
2-9-61 (boys' and men's casual pants).

Morgan Shirt Co., Inc., Morgantown, W. Va.; effective 2-5-60 to 2-4-61 (ladies' mantailored blouses, men's dress shirts).

Reidbord Brothers Co., Lumber Street, Buckhannon, W. Va.; effective 2-4-60 to 2-3-61 (men's dress and work trousers).

Rodgers of Carolina, Inc., 10 University Ridge, Greenville, S.C.; effective 2-15-60 to 2-14-61 (cotton and rayon junior dresses).

Samsons Manufacturing Corp., Wilson, N.C.; effective 2-9-60 to 2-8-61 (men's dress shirts)

shirts).

C. A. Neuburger Co., Div. of H. W. Sherman Corp., 913 South Main Street, Oshkosh, Wis.; effective 1-13-60 to 1-12-61. Learners may not be employed at special minimum wage rates in the production of suits, separate skirts and lined jackets. (Corrected certificate) (women's and misses' dresses).

Troutman Shirt Co., Inc., Troutman, N.C.; effective 2-8-60 to 2-7-61 (work and sport shirts).

Troutman Shirt Co., Inc., Mooresville, N.C.; effective 2-5-60 to 2-4-61 (work pants and shirts).

Williamstown Dress Co., Inc., West Street, Williamstown, Pa.; effective 2-3-60 to 2-2-61 (women's dresses).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Dickson City Garment Corp., Bowman and Dewey Streets, Dickson, Pa.; effective 2-16-60 to 2-15-61; 10 learners (children's outerwear).

The Kramer Co., 1437 Fuselage Avenue, Baltimore, Md.; effective 2-3-60 to 2-2-61; 5 learners (ladies' blouses).

Merrill Woolen Mills Garment Factory, 1500 West Main Street, Merrill, Wis.; effective 2-8-60 to 2-7-61; 10 learners (sportswear, men's, ladies' and children's jackets).

Nightingale Uniform Co., Inc., Mill Street, Georgiana, Ala.; effective 2-3-60 to 2-2-61; 10 learners (nurses' uniforms, doctors' office coats).

Peerless Sportswear Manufacturing Co., 324 South Main Street, Wilkes-Barre, Pa.; effective 2-3-60 to 2-2-61; 10 learners (girls' cotton and rayon slacks and shorts; boys' cotton and rayon longles).

Phillips-Van Heusen Corp., Minersville, Pa.; effective 2-4-60 to 2-3-61; 10 learners (knit-

Ronnie Dress Co., 29 North Main Street, Shickshinny, Pa.; effective 2-8-60 to 2-7-61; 10 learners (ladies' dresses).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Duluth Sportswear Co., Duluth, Ga.; effective 2-5-60 to 8-4-60; 10 learners (knitted shirts).

Moreland Sportswear, Inc., 309 North Fourth Street, Youngwood, Pa.; effective 2-5-60 to 8-4-60; 6 learners (ladies' blouses).

Panola Incorporated of Batesville, Linker Street, Batesville, Miss.; effective 2-5-60 to 8-4-60; 50 learners (women's girdles, panty girdles and corselettes made from purchased woven and knitted fabrics).

Reidbord Brothers Co., Lumber Street,

Reidbord Brothers Co., Lumber Street, Buckhannon, W. Va.; effective 2-4-60 to 8-3-60; 20 learners (men's dress and work trousers).

Sally Marks, Ltd., Rienzi, Miss.; effective 2-5-60 to 8-4-60; 30 learners (women's apparel, blouses and skirts).

Selmer Manufacturing Co., Inc., Selmer, Tenn.; effective 2-8-60 to 8-7-60; 50 learners (men's sport shirts).

Wes-Bloc Mfg. Co., Inc., West Blocton, Ala.; effective 2-3-60 to 7-24-60; 45 learners (sup-

plemental certificate) (men's and boys' pants).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.44, as amended).

The following learner certificates were issued authorizing the employment of five percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Barber Hosiery Mills, Inc., 1078 South Main Street, Mount Airy, N.C.; effective 2-2-60 to 2-1-61 (seamless hosiery (anklets)).

Charmeuse Hosiery Industries, Inc., 406 Hoover Street, Asheboro, N.C.; effective 2-4-60 to 2-3-61 (women's seamless hosiery).

Kayser-Roth Hoslery Co., Inc., Burlington, N.C.; effective 2-14-60 to 2-13-61 (men's and ladies' hoslery).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated

Elizabeth City Hosiery Mills, Elizabeth City, N.C.; effective 2-8-60 to 8-7-60; 15 learners (ladies' full-fashioned and circular knit nylon hosiery).

Greensboro Hosiery Mills, Inc., Greensboro, N.C.; effective 2-2-60 to 8-1-60; 20 learners (ladies' seamless hosiery).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.30 to 522.35, as amended).

C & M Garment, Inc., Keshena, Wis., effective 2-8-60 to 2-7-61; 5 learners for normal labor turnover purposes (women's and children's knit pantles).

Delta Undies, Inc., Webb, Miss.; effective 2-8-60 to 8-7-60; 15 learners for plant expansion purposes (women's, misses', children's and infants' underwear of knitted fabric).

Royal Manufacturing Co., Inc., Crawford-ville, Ga.; effective 2-7-60 to 2-6-61; 5 learners for normal labor turnover purposes (men's and boys' drawers, cotton shorts). Russell Manufacturing Corp., Lebanon, Va.; effective 2-14-60 to 2-13-61; 5 percent

Russell Manufacturing Corp., Lebanon, Va.; effective 2-14-60 to 2-13-61; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' underwear—whole and half slips).

(ladies' underwear—whole and half slips). Russell Manufacturing Corp., Lebanon, Va.; effective 2–8-60 to 8–7-60; 20 learners for plant expansion purposes (ladies' underwear—whole and half slips).

S and M Manufacturing Co., Greenville Highway, Easley, S.C.; effective 1-30-60 to 7-29-60; 15 learners for plant expansion purposes engaged in the manufacture of infants' pajamas and play togs only (corrected certificate).

Shadowline, Inc., Boone, N.C.; effective 2-13-60 to 8-12-60; 25 learners for plant expansion purposes (ladies' knit lingerie).

Shoe Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.50 to 522.55, as amended).

Diane Footwear, Inc., 476 Blackman Street, Wilkes-Barre, Pa.; effective 2-17-60 to 2-16-61; 10 percent of the total number of factory production workers for normal labor turnover purposes (ladies' and children's play shoes and slippers).

Robinson Manufacturing Co., Outer West Main, Robinson, Ill.; effective 2-5-60 to 2-4-61; 10 percent of the total number of factory production workers for normal labor turnover purposes (children's and misses' shoes).

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Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended)

Herman D. Oritsky and Co., 106 Grape Street, Reading, Pa.; effective 2-8-60 to 8-7-60; 5 percent of the total number of factory production workers for normal labor turnover purposes in the occupations of sewing machine operator, hand sewers, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of at least 90 cents an hour for the first 280 hours and not less than 95 cents an hour for the remaining 200 hours (men's suits and sport coats; Army and Navy uniforms).

Henry I. Siegel Co., Inc., Coats and Vests Dept., Bruceton, Tenn.; effective 2-10-60 to 8-9-60; 5 percent of the total number of factory production workers engaged in the production of men's and boys' sport coats and vests in the occupations of sewing machine operating, final pressing, hand sewing, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of at least 90 cents an hour for the first 280 hours and not less than 95 cents an hour for the remaining 200 hours.

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Andrew Hosiery Mills, Inc. (Div. of Gordonshire Knitting Mills), Cayey, P.R.; effective 2-1-60 to 7-31-60; 25 learners for plant expansion purposes in the occupations of: (1) loopers, menders, each for a learning period of 960 hours at the rates of 56 cents an hour for the first 480 hours and 62 cents an hour for the remaining 480 hours; (2) preboarding, for a learning period of 480 hours at the rates of 56 cents an hour for the first 240 hours and 62 cents an hour for the remaining 240 hours; (3) examiners, knitters, each for a learning period of 240 hours at the rate of 56 cents an hour (seam-less).

Antilles Leatherware, Inc., 21 Munoz Rivera Street, Caguas, P.R.; effective 1-20-60 to 1-19-61; 5 learners for normal labor turnover purposes in the occupation of machine sewers on leather, for a learning period of 480 hours at the rates of 55 cents an hour for the first 240 hours and 64 cents an hour for the remaining 240 hours (leather Jackets).

Caribe General Electric, Inc., Palmer, P.R.; effective 2-1-60 to 7-31-60; 50 learners for plant expansion purposes in the occupations of: (1) welders, power press operators, calibrators, molders, each for a learning period of 480 hours at the rates of 80 cents an hour for the first 240 hours and 90 cents an hour for the remaining 240 hours; (2) assemblers, inspectors, plastic finishers, platers, stampers, crillers, each for a learning period of 240 hours at the rate of 80 cents an hour; (3) grinders, for a learning period of 160 hours at the rate of 80 cents an hour (electrical products).

Caribe Sportswear, Inc., Caguas, P.R.; effective 1-25-60 to 7-24-60; 20 learners for plant expansion purposes in the occupation of, sewing machine operators for a learning period of 480 hours at the rates of 53 cents an hour for the first 240 hours and 62 cents an hour for the remaining 240 hours (women's and children's blouses).

Coral Manufacturing Corp., 56 Cristy Street, Mayaguez, P.R.; effective 1-18-60 to 7-17-60; 25 learners for plant expansion purposes in the occupations of: (1) sewing machine operators, final pressing, each for a learning period of 480 hours at the rates of 54 cents an hour for the first 240 hours and 63 cents an hour for the remaining 240

hours; (2) pressing other than final pressing, trimming machine operators, each for a learning period of 160 hours at the rate of 54 cents an hour (men's work pants).

54 cents an hour (men's work pants). Seamless Girdle Industries, Inc., Catano, P.R.; effective 1-21-60 to 7-20-60; 30 learners for plant expansion purposes in the occupations of looping, sewing, each for a learning period of 480 hours at the rates of 60 cents an hour for the first 320 hours and 70 cents an hour for the remaining 160 hours (women's girdles).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REG-ISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D.C., this 11th day of February 1960.

ROBERT G. GRONEWALD, Authorized Representative of the Administrator.

[F.R. Doc. 60-1680; Filed, Feb. 24, 1960; 8:46 a.m.]

# INTERSTATE COMMERCE COMMISSION

## FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 23, 1960.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the Federal Register.

#### LONG-AND-SHORT HAUL

FSA No. 36029: Substituted service—PRR, et al., for Mason & Dixon Lines, Inc. Filed by Southern Motor Carriers Rate Conference, Agent (No. 18), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Kearny, N.J. and Philadelphia, Pa., on the one hand, and Atlanta, Ga., and Charlotte, N.C., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 3 to Southern Motor Carriers Rate Conference, Agent, tariff I.C.C. 33, MF-I.C.C. 1071.

FSA No. 36030: Substituted service—RF&P, et al., for Mason & Dixon Lines, Inc. Filed by Southern Motor Carriers Rate Conference, Agent (No. 19), for interested carriers. Rates on property loaded in highway trailers and trans-

ported on railroad flat cars between Alexandria, Va., and Atlanta, Ga., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 3 to Southern Motor Carrier Rate Conference, Agent, tariff I.C.C. 33, MF-I.C.C. 1071.

FSA No. 36031: Plaster—Rosario, N. Mex., to WTL points. Filed by Southwestern Freight Bureau, Agent (No. B-7742), for interested carriers. Rates on plaster, gypsum wallboard and related articles, as described in the application, in carloads from Rosario, N. Mex., to points in western trunkline territory.

Grounds for relief: Market competi-

Tariff: Supplement 78 to Southwestern Freight Bureau tariff I.C.C. 4017.

FSA No. 36032: Soybean hulls—From, to and between points in southwestern and WTL territories. Filed by Southwestern Freight Bureau, Agent (No. B-7743), for interested rail carriers. Rates on soybean hulls, in carloads from, to and between points in southwestern and western trunk-line territories.

Grounds for relief: Short-line dis-

tance formula and grouping.

Tariffs: Supplement 124 to South-western Freight Bureau tariff I.C.C. 3972, and 3 other schedules named in the application.

By the Commission.

[SEAL] HAROLD D. McCoy, Secretary.

[F.R. Doc. 60-1744; Filed, Feb. 25, 1960; 8:49 a.m.]

[Notice 269]

### MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 23, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62794. By order of February 18, 1960, the Transfer Board approved the transfer to Elfriede Haynes, doing business as Haynes Transfer Company, St. Louis County, Mo., of Certificate in No. MC 8180, issued October 19, 1955, to Richard Haynes, doing business as Haynes Transfer Co., Mehlville, Mo., authorizing the transportation of: General commodities, with the usual exceptions including household goods and commodities in bulk, between points in

the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, as defined by the Commission in 1 M.C.C. 656. Austin C. Knetzger, 722 Chestnut Street, St. Louis 1, Mo., for applicants.

No. MC-FC 62868. By order of February 18, 1960, the Transfer Board approved the transfer to Curtis A. Dorsey, Still Pond, Md., of Certificate in No. MC 96273, issued October 25, 1956, to John Wesley Black, Worton, Md., authorizing the transportation of: Passengers and their baggage, in charter operations, from points in Kent County, Md., to Chester and Philadelphia, Pa., Camden, N.J., and points in Delaware, and return. George B. Rasin, Jr., Chestertown, Maryland, for applicants.

No. MC-FC 62872. By order of February 18, 1960, the Transfer Board approved the transfer to A. W. Schmidt

Transfer, Inc., Cedar Rapids, Iowa, of Certificate in No. MC 92309, issued March 26, 1943, to Alfons William Schmidt, doing business as Schmidt Transfer, Cedar Rapids, Iowa, authorizing the transportation of: General commodities, with the usual exceptions including household goods, between specified points in Iowa. J. W. Riley, Jr., 1215 Merchants National Bank Bldg., Cedar Rapids, Iowa, for applicants.

No. MC-FC 62883. By order of Feb-

ruary 18, 1960, the Transfer Board approved the transfer to McLaine Service Corp., New York, N.Y., of Permits in Nos. MC 35012 and MC 35012 Sub 1, issued June 3, 1949, and June 19, 1957, respectively, to E. G. Trucking Co., Inc., Brooklyn, N.Y., authorizing the transportation over irregular routes of: Groceries from New York, N.Y., to specified

points in Massachusetts, Connecticut, New Jersey and New York (except Long Island: soluble coffee from Linden, N.J., to Brooklyn, N.Y., groceries from Albert Ehlers Company, New York, N.Y., to points in New Jersey; spices, crackermeal, jellies, preserves, and paper coffee bags, from Philadelphia, Pa., to Ridgewood, N.Y., and groceries from New York, N.Y., to Philadelphia, Pa., and defective and deteriorated returned shipments of groceries, from Philadelphia, Pa., to New York, N.Y. William D. Traub, 10 East 40th Street, New York 16, N.Y., for transferor. N. T. Helman, 270 Madison Avenue, New York 16, N.Y., for transferee.

[SEAL] HAROLD D. McCoy, Secretary.

[F.R. Doc. 60-1745; Filed, Feb. 25, 1960; 8:49 a.m.]

### **CUMULATIVE CODIFICATION GUIDE—FEBRUARY**

A numerical list of parts of the Code of Federal Regulations affected by documents published to date during February. Proposed rules, as opposed to final actions, are identified as such.

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